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JEANNE HICKS, Clerk
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

THE STATE OF ARIZONA,)
)
Plaintiff,)
)
vs.) No. CR 2008-1339
)
STEVEN CARROLL DEMOCKER,)
)
Defendant.)
_____)

BEFORE: THE HONORABLE THOMAS B. LINDBERG
JUDGE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
WEDNESDAY, JUNE 16, 2010
9:04 A.M. - 4:45 P.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

ROXANNE E. TARN, CR
Certified Court Reporter
Certificate No. 50808

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APPEARANCES

On Behalf of the State:

Mr. Joseph Butner and Mr. Jeffrey Paupore
Yavapai County Attorney's Office

On Behalf of the Defendant:

Mr. John Sears
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Prescott, AZ 86302

Mr. Larry Hammond and Ms. Anne Chapman
Osborn Maledon, P.A.
2929 North Central Ave., 21st Floor
Phoenix, AZ 85012

1 THE COURT: Good morning. The record reflects
2 the presence of the defendant, the defense team, the
3 prosecution team, Mr. Butner.

4 Mr. Huante is on the stand.

5 MR. BUTNER: Thank you, Judge. We need to
6 play the video that we needed to boost the sound on.

7 THE COURT: Proceed.

8 MR. BUTNER: Thank you.

9 LUIS HUANTE,
10 previously called as a witness, having been duly sworn,
11 testified further as follows:

12 DIRECT EXAMINATION RESUMED

13 BY MR. BUTNER:

14 Q. Just to clarify the record, Sergeant Huante, this
15 is a video of the defendant that was made on the morning of
16 July the 3rd of the year 2008; is that correct?

17 A. Yes.

18 Q. And it was in the Yavapai County Sheriff's office?

19 A. Yes.

20 MR. BUTNER: For the record that is Exhibit
21 No. 563.

22 THE COURT: Is that admitted already?

23 MR. BUTNER: I believe it is admitted by
24 stipulation, Your Honor.

25 THE COURT: Is that correct; Mr. Sears?

1 MR. SEARS: Sorry, Your Honor?

2 THE COURT: 563 is admitted, the CD, by
3 stipulation; is that correct?

4 MR. SEARS: Yes. Thank you, Your Honor.

5 THE COURT: 563 is admitted and may be played.
6 (Whereupon, a recording was played and not reported.)

7 MR. BUTNER: Judge, we have redacted the gaps.

8 THE COURT: All right. Thank you.

9 (Whereupon, a recording was played and not reported.)

10 THE COURT: The record can reflect that the
11 tape is concluded.

12 I am going to give everyone a 15 minute
13 mid-morning break. Remember the admonition. Take a 15
14 minute recess.

15 (Whereupon, the jury exits the courtroom.)

16 (Brief recess.)

17 (Whereupon, the jury enters the courtroom.)

18 THE COURT: Record reflects the presence of
19 the jury, the defendant and the defense counsel team, and the
20 prosecutor team.

21 Sergeant Huante is still on the stand.

22 Direct examination, Mr. Butner.

23 MR. BUTNER: Judge, before we go much further,
24 at this time I would move for the admission into evidence of
25 Exhibit 794.

1 MR. SEARS: Foundation. These are search
2 warrants and affidavits. Sergeant Huante is not the affiant.

3 MR. BUTNER: It is a certified copy, Judge,
4 from the court. I ask that it be admitted into evidence at
5 this time.

6 THE COURT: Anything else?

7 MR. SEARS: The copy we had, Your Honor,
8 didn't have the clerk's certification on this. It is dated
9 November 20, 2008. I don't know if it was admitted at some
10 other time, and I don't know whether this document -- the
11 seal is on the last page of this document. I can't tell what
12 has been certified. Foundation.

13 THE COURT: Overruled. 794 is admitted.

14 MR. BUTNER: I would move for the admission of
15 Exhibit 796.

16 MR. SEARS: Same objection.

17 MR. BUTNER: That was a search warrant issued
18 later in the day, Judge.

19 THE COURT: Also certified?

20 MR. BUTNER: Certified.

21 THE COURT: Objection is overruled.

22 MR. SEARS: Your Honor, I looked at 796 a bit
23 more, Your Honor. It contains -- on the search warrant
24 related documents, it looks like it contains --

25 THE COURT: If there is something that you are

1 going to point out, why don't we have side bar.

2 MR. SEARS: Yes, Your Honor.

3 (Whereupon, a discussion was held off the record.)

4 THE COURT: So, I admitted 794, admitted 796.

5 MR. BUTNER: Thank you, Your Honor.

6 Q. Sergeant Huante, on July the 3rd -- on the morning
7 of July the 3rd, did you proceed with other officers of the
8 Yavapai County Sheriff's office to execute a search warrant?

9 A. Yes, I did.

10 Q. Did you execute that search warrant over at Alpine
11 Meadows, the residence of Mr. DeMocker at 1716 Alpine
12 Meadows?

13 A. Yes, I did.

14 Q. And when you executed -- when you assisted in the
15 execution of the warrant, how many officers went to Alpine
16 Meadows, if you can recall?

17 A. I believe it was Detective Brown, myself, Evidence
18 Technician Ken Brewer, Investigator Jimmy Jarrell, and
19 Investigator Wendy Parkinson.

20 Q. Let me show you --

21 MR. BUTNER: May I approach, Judge?

22 THE COURT: Yes, you may.

23 BY MR. BUTNER:

24 Q. Let me show you what has been marked as Exhibit
25 2355, and 2356, and 2357, and 2359. Would you take a look at

1 each of those photographs. That would be 2355, 56, 57, and
2 59.

3 A. These are all photographs --

4 Q. Wait. I have to ask the questions.

5 What is depicted in Exhibit No. 2355? Do
6 you recognize it?

7 A. Yes, I do.

8 Q. What is that?

9 A. They are photographs of Mr. DeMocker's garage and
10 the items in the garage.

11 Q. And in regard to Exhibit 2355, which side of the
12 garage is depicted in that particular photograph?

13 A. If I was facing the garage unit, it would be my
14 right side.

15 Q. So as you're facing the open doors of the garage,
16 it would be the right side of the garage?

17 A. That's correct.

18 Q. Is that how the garage appeared on the morning of
19 July the 3rd, 2008, when you and the other officers arrived
20 to execute the first search warrant at Alpine Meadows?

21 A. That's correct, yes.

22 Q. Looking at Exhibit No. 2356, do you recognize what
23 is depicted in that?

24 A. It is the left-hand side of the garage --

25 Q. Okay.

1 A. -- and the items.

2 Q. In the back left corner of the garage?

3 A. That's correct, yes.

4 Q. Again, is that how the garage appeared on the
5 morning of July the 3rd of the year 2008?

6 A. Yes.

7 Q. And then in regard to Exhibit No. 2357, do you
8 recognize what is depicted in Exhibit 2357?

9 A. Yes. It is one of the shelves on the right side
10 of the garage that contain items such as boxes, paper bags
11 and other stuff.

12 Q. That is on the right-hand side of the garage?

13 A. Yes.

14 Q. Is that how it appeared on the morning of July the
15 3rd of the year 2008?

16 A. Yes.

17 Q. And then in regard to Exhibit 2359, do you
18 recognize what is depicted in Exhibit 2359?

19 A. Yes. It is the left-hand side of the garage,
20 close up where there is workout equipment and a bicycle.

21 Q. Is that as it appeared on the morning of July the
22 3rd, of 2008?

23 A. Yes.

24 MR. BUTNER: I would move for the admission at
25 this time of 2355 2356, 2357 and 2359, Your Honor.

1 MR. SEARS: A few questions on voir dire, Your
2 Honor?

3 THE COURT: You may.

4 MR. SEARS: Thank you.

5 VOIR DIRE EXAMINATION

6 BY MR. SEARS:

7 Q. Sergeant, who took these pictures?

8 A. I believe it was Leslie Madaffari.

9 Q. Another evidence technician from the Sheriff's
10 office?

11 A. Yes, that's correct.

12 Q. Can you tell what time of the day these
13 photographs were taken?

14 A. I would just be guessing, but it was in the
15 morning hours between 8:00 and 10:00.

16 Q. Were those photographs taken before any search was
17 conducted?

18 A. Yes.

19 Q. Were there any vehicles in the garage when the
20 door was opened?

21 A. No, sir.

22 MR. SEARS: No objection.

23 THE COURT: 2355, 56, 57 and 59 all prefixed
24 23 are admitted.

25 MR. BUTNER: Thank you.

1 DIRECT EXAMINATION RESUMED

2 BY MR. BUTNER:

3 Q. And then let me show you what has been marked as
4 Exhibit No. 2390.5 Do you recognize what is depicted in that
6 particular exhibit?7 A. Yes. It is an overview of the whole garage,
8 showing both sides of the garage.9 Q. Is that how it appeared on the morning of July the
10 3rd of the year 2008 --

11 A. Yes.

12 Q. -- when you and the other officers arrived to
13 execute the search warrant?

14 A. Yes.

15 Q. And then let me show you what has been marked as
16 Exhibit No. 2358.17 Do you recognize what is depicted in that
18 particular exhibit?19 A. It is a close-up of some items, especially some
20 shoes on the shelf.

21 Q. In the garage?

22 A. That's correct, yes.

23 Q. Is that how those items appeared on the morning of
24 July the 3rd, 2008, when you arrived to execute the search
25 warrant at 1716 Alpine Meadows?

1 A. Yes.

2 MR. BUTNER: I would move for admission of
3 Exhibit 2358 and 2390 at this time, Your Honor.

4 THE COURT: Have you seen them, Mr. Sears?

5 MR. SEARS: I have our copies here, Your
6 Honor. No objection.

7 THE COURT: 2358, 2390 are admitted.

8 BY MR. BUTNER:

9 Q. And then, Detective Huante, when you arrived at
10 the Alpine Meadows residence, were there any items in the
11 garage that were of particular interest and significance to
12 you?

13 A. Yes. In particular the bicycle and some tennis
14 shoes.

15 Q. And let me show you what has been marked as
16 Exhibits 2362, 2363, and 2364.

17 Do you recognize what is depicted in
18 those three photographs?

19 A. Yes. They are the bicycle tires -- or the bicycle
20 that was in the garage. It is the front -- the first two
21 pictures depict the front tire, and the last picture depicts
22 the back tire.

23 Q. Is that how the bicycle tires appeared when you
24 arrived to execute the search warrant on the morning of July
25 the 3rd, 2008, there in Mr. DeMocker's garage?

1 A. Yes.

2 MR. BUTNER: I would move for the admission of
3 2362, 2363, and 2364 at this time.

4 MR. SEARS: Few questions on voir dire, Your
5 Honor?

6 THE COURT: You may.

7 VOIR DIRE EXAMINATION

8 BY MR. SEARS:

9 Q. Sergeant, do you know who took these three
10 photographs of the bicycle tires?

11 A. I believe it was Leslie Madaffari.

12 Q. These were taken inside the garage at roughly the
13 same time as the other photos from a distance were taken?

14 A. Yes.

15 Q. Do you know at whose direction these were taken?

16 A. Mine.

17 MR. SEARS: No objection.

18 THE COURT: 2362, 2363, 2364 are admitted.

19 DIRECT EXAMINATION RESUMED

20 BY MR. BUTNER:

21 Q. Let me show you what has been marked as Exhibit
22 2392.

23 And I would ask if you recognize what is
24 depicted in that particular exhibit.

25 A. It is a close-up of the shelf in the right-hand

1 side of the garage and the items on the shelf.

2 Q. And there are other items that you recognize that
3 were in the garage there that day, too, at that time?

4 A. Yes. There is a particular item that -- it is a
5 golf sock, a steel head. It says "steel head" on the sock
6 itself.

7 Q. Was this there on the morning of July the 3rd of
8 the year 2008?

9 A. Yes, it was.

10 Q. Were there golf clubs in Mr. DeMocker's garage on
11 that date at that time, also?

12 A. Yes, there were.

13 Q. Are those depicted in that photograph?

14 A. Right next to the shelf.

15 Q. This is how that shelf on the right-hand side of
16 the garage, the one toward the front opening of the garage,
17 appeared on the morning of July the 3rd of 2008?

18 A. Yes.

19 MR. BUTNER: I would move for the admission of
20 2392?

21 THE COURT: Correct.

22 MR. SEARS: No objection.

23 THE COURT: 2392 is admitted.

24 MR. BUTNER: May I publish, Your Honor?

25 THE COURT: You may.

1 MR. BUTNER: Thank you.

2 Q. Okay. What is depicted in this particular
3 photograph, Sergeant Huante?

4 THE COURT: For the record, can we have the
5 number as you go.

6 MR. BUTNER: Sorry, Judge.

7 THE COURT: I would appreciate it.

8 MR. BUTNER: This is Exhibit 2359.

9 THE COURT: Thank you.

10 BY MR. BUTNER:

11 Q. Would you tell us what is depicted in Exhibit
12 2359, please.

13 A. This the left-hand side of the garage. This is
14 the exercise equipment that I mentioned, and there is the
15 bicycle that I mentioned.

16 Q. And let me show you what has been admitted into
17 evidence as Exhibit 2357.

18 Do you recognize what is depicted in that
19 particular exhibit?

20 A. Yes. This is the shelf on the right-hand side of
21 the garage. These are the golf clubs, and this is the golf
22 sock that I was mentioning.

23 Q. And let me show you what has been admitted into
24 evidence as Exhibit No. 2355.

25 What is depicted in this particular

1 exhibit?

2 A. It is an angle shot of the garage from the left
3 side to the right side. These are the shelves. This is
4 where the golf sock was at. This is the exercise equipment,
5 and the bicycle should be around here, and that is the door
6 to the house.

7 Q. 2356, do you recognize that exhibit?

8 A. Yes. Left side of the garage, the exercise
9 equipment again and the bicycle.

10 Q. And then let me show what you has been admitted
11 into evidence as Exhibit 2390.

12 Do you recognize what is depicted in that
13 particular exhibit?

14 A. It is a wide-angle shot of the whole garage with
15 the shelves here and the exercise equipment and the bicycle
16 on the other side.

17 Q. Let me show what you has been admitted into
18 evidence as Exhibit No. 2358.

19 Do you recognize what is depicted in that
20 particular exhibit?

21 A. Yes. These shoes were on the shelf on the
22 right-hand side, and this is part of the golf sock.

23 Q. And then showing you what has been admitted into
24 evidence as Exhibit No. 2392.

25 A. It is a wide-angle shot of the same shelf, the

1 golf clubs here, the shoes there, the golf sock there.

2 Q. Were those golf clubs seized as part of the search
3 warrant?

4 A. Not at this particular time. We returned with a
5 second search warrant and we seized the golf clubs and the
6 sock. We were looking for the sock.

7 Q. You came to the DeMocker residence at 1716 Alpine
8 Meadows at approximately what time of day on July the 3rd of
9 the year 2008?

10 A. It was soon after I left the interview with
11 Mr. DeMocker. Probably, I would say, somewhere after 7:00.

12 Q. And at that time you had the search warrant?

13 A. Yes.

14 Q. And what were you looking for, basically,
15 especially in the garage area where you were searching?

16 A. I was looking for any items of possible evidence.
17 I was particularly interested in the bicycle.

18 Q. And was the bicycle seized at that time?

19 A. Yes, it was.

20 Q. Were the tires photographed there in the garage?

21 A. Yes.

22 Q. Let me show you what has been admitted into
23 evidence as Exhibit 2362.

24 Do you recognize what is depicted in that
25 particular exhibit?

1 A. Yes. This is the front tire of the bicycle. Due
2 to the fact that it has a directional tread pattern, I know
3 it is a front tire.

4 Q. And I guess 2363. What is that a picture of?

5 A. Again, it is a front tire.

6 Q. A more close-up version?

7 A. Yes.

8 Q. And then let me show you what has been admitted
9 into evidence as 2364.

10 Do you recognize what is depicted in that
11 particular exhibit?

12 A. Yes. This is the rear tire of the bicycle, again,
13 due to the tread pattern.

14 Q. And for what reason were you concerned about the
15 bicycle and the tires on the bicycle, in particular, at
16 Mr. DeMocker's residence?

17 A. I was made aware, and I went to the actual
18 location where there was tracks and footprints. And the
19 tracks that I saw for the bicycle had the same kind of tread
20 pattern. They were very similar to this. And front and back
21 tires were also not identical. They were different.

22 Q. And these tire tracks that you observed at the
23 crime scene, where at the crime scene were they located?

24 A. They were located right off of Glenshandra.

25 Q. Past the Glenshandra trailhead?

1 A. Yes.

2 Q. To the east, so to speak, at that open range land?

3 A. Yes. I believe it is called Deep Well.

4 Q. The Deep Well Ranch?

5 A. Yes.

6 Q. Did you go back and execute another search warrant
7 at the Alpine Meadows residence later in the day?

8 A. Yes, I did.

9 Q. Approximately what time of day did you go back to
10 Alpine Meadows?

11 A. I believe it was around six o'clock.

12 Q. And at that point in time what were you looking
13 for?

14 A. We had just left the medical examiner's office.
15 Medical examiner's office -- Dr. Keen advised us that he
16 believed --

17 MR. SEARS: Hearsay.

18 THE COURT: Mr. Butner.

19 MR. BUTNER: Judge, it is not offered for the
20 truth of the matter asserted.

21 MR. SEARS: It is irrelevant.

22 THE COURT: Overruled. Both objections.

23 MR. BUTNER: Thank you.

24 THE WITNESS: Dr. Keen believed the item used
25 to injure Ms. Kennedy was a golf club.

1 BY MR. BUTNER:

2 Q. So you were relying upon that information from
3 Dr. Keen in your search?

4 A. Yes, sir.

5 Q. Your second search at Alpine Meadows?

6 A. Yes, due to the fact that I had left the golf
7 clubs there the first time.

8 Q. You remembered seeing the golf clubs there?

9 A. Yes.

10 Q. So you went and obtained another search warrant?

11 A. That is correct.

12 Q. When you returned to Alpine Meadows to execute the
13 second search warrant, were the golf clubs there?

14 A. Yes, they were.

15 Q. Did you seize them?

16 A. Yes, I did.

17 Q. Let me show you what has been marked as Exhibit
18 No. 2394.

19 MR. BUTNER: May I approach, Judge?

20 THE COURT: You may.

21 BY MR. BUTNER:

22 Q. Do you recognize what is depicted in that
23 particular exhibit?

24 A. Yes. This is a photo of the same shelf on the
25 right-hand side the second time we came back.

1 Q. The second time you came back to Alpine Meadows
2 with the search warrant?

3 A. Correct.

4 Q. This is at approximately what time of day?

5 A. Sometime after 1800 hours.

6 Q. Sometime after six o'clock on July the 3rd, 2008?

7 A. Yes, sir.

8 MR. BUTNER: I would move for the admission of
9 2394 at this time.

10 MR. SEARS: Voir dire, Your Honor?

11 THE COURT: You may.

12 VOIR DIRE EXAMINATION

13 BY MR. SEARS:

14 Q. Who took this photograph?

15 A. Josh Nelson, an evidence tech.

16 Q. What time was it taken at?

17 A. Sometimes after 1800 hours, 6:00 p.m.

18 Q. Was it taken before the search warrant was
19 executed inside the garage?

20 A. Yes.

21 MR. SEARS: No objection.

22 THE COURT: 2394 is admitted.

23 MR. BUTNER: Thank you.

24 May I publish?

25 THE COURT: You may.

1 DIRECT EXAMINATION RESUMED

2 BY MR. BUTNER:

3 Q. Showing you, for the record, Exhibit 2394 now
4 admitted into evidence, what is depicted in this particular
5 photograph?6 A. It is the right-hand shelf, again with the golf
7 clubs that I was looking for. And one thing that struck me
8 particular of interest was that things in the shelf had been
9 rearranged. This box used to be here. Now it is here.
10 These shoes used to be here, and the golf sock is now
11 missing.12 Q. When you came back looking for the golf clubs, you
13 hadn't asked to seize the golf sock on the search warrant is
14 that correct, Sergeant Huante?

15 A. Yes.

16 Q. For what reason had you not asked to seize the
17 golf sock?18 A. Because I was actually looking for golf clubs. I
19 did not realize the importance of it until it was missing.20 Q. And so after noticing that the golf sock was
21 missing and that the shelving area had been rearranged and
22 straightened up, what did you do?23 A. I assigned my detectives to search the entire
24 house, including the attic.

25 Q. And did you go up into the house and have

1 conversation with any of the occupants?

2 A. Yes, I did.

3 Q. Who did you have conversation with?

4 A. I believe Mr. DeMocker was there. His daughter
5 Katie [sic], and a young man named Jacob.

6 Q. And did you ask Charlotte and Jacob where the golf
7 sock was located?

8 A. Yes, I did.

9 MR. SEARS: Leading.

10 THE COURT: Sustained.

11 BY MR. BUTNER:

12 Q. Did you have questions about the location of any
13 items that you were seeking when you were there searching?

14 A. Yes.

15 Q. What did you talk to Charlotte about?

16 A. I asked where the sock was at, if she knew where
17 it was at.

18 Q. Did you ask Jacob about the sock?

19 A. Yes.

20 Q. What did you ask him?

21 A. The same question.

22 Q. In fact -- your conversation with Charlotte and
23 Jacob, would you describe it for us, please.

24 MR. SEARS: Relevance. Calls for narrative.

25 THE COURT: Sustained.

1 BY MR. BUTNER:

2 Q. What was the tone of your conversation with
3 Charlotte and Jacob --

4 MR. SEARS: Relevance.

5 BY MR. BUTNER:

6 Q. -- when you confronted them on the evening of July
7 the 3rd, 2008?

8 MR. SEARS: Relevance.

9 THE COURT: Overruled.

10 THE WITNESS: I was frustrated.

11 BY MR. BUTNER:

12 Q. And did you in some fashion evidence your
13 frustration with Charlotte and Jacob?

14 A. Yes, I did.

15 Q. Tell us how you did that.

16 A. Raised my voice at them.

17 Q. Was Mr. DeMocker present when you were having this
18 conversation with Charlotte and Jacob?

19 A. I believe he was there, or he was in the bedroom.

20 Q. While you were searching the garage down below,
21 where was Mr. DeMocker located?

22 A. At some point I had him in my view. We were all
23 sitting in a type of dining room area.

24 Q. So he had been seated in the dining room area
25 also?

1 A. Yes.

2 Q. When you had this conversation with Charlotte and
3 Jacob, did you raise your voice?

4 A. Yes, I did.

5 Q. And did either one of them take offense at the
6 tone of the conversation with you?

7 A. They probably did.

8 Q. Do you remember either of them evidencing their
9 taking offense at the tone of your conversation?

10 A. Not exactly, sir, I don't.

11 Q. So this is Exhibit 2394; right?

12 And do you recognize what these items
13 down here are on this shelf?

14 A. These are all paper sacks, and these are some sort
15 of paper or cardboard containers, and they are in the very
16 same area that they were before.

17 Q. So they didn't move?

18 A. Doesn't appear to, no.

19 Q. Let's take a look at one of the photos from
20 before. And would you point out the -- this is Exhibit No.
21 2392, for the record.

22 Would you point out the sacks that were
23 located there at that point in time.

24 A. Right there, and these are the cardboards. And
25 the shoes that I mentioned that were down here, were up

1 there. And this box was now here, and the sock was missing.

2 Q. Okay. Let me show you also in Exhibit No. 2394,
3 there is a vehicle in the lower right-hand corner of this
4 particular photograph; is that correct?

5 A. Yes.

6 Q. Did you find out whose vehicle that was?

7 A. Yes.

8 Q. Whose vehicle was that?

9 A. That is Renee Girard's vehicle.

10 Q. The little white Toyota?

11 A. I believe so, yes.

12 Q. Was that where that vehicle was parked at the time
13 that you came and executed the second search warrant?

14 A. Yes, it was.

15 Q. Let's clear that up just a little bit. Referring
16 to Exhibit 2394, you can't see where the garage door is
17 located in this photograph, can you?

18 A. No.

19 Q. How far into the garage was Ms. Girard's vehicle
20 parked?

21 A. I believe that the front of the hood is about
22 right here, and the window is maybe about right here, and the
23 door to the garage is here. It was not past the front door
24 passenger window.

25 Q. So just the front portion of the car was projected

1 into the garage?

2 A. Yes.

3 Q. And in executing the second search warrant at
4 Alpine Meadows, did you go up into Mr. DeMocker's closet
5 area?

6 A. Yes.

7 Q. At that point in time was there anything of
8 special significance that you were looking for in
9 Mr. DeMocker's closet area?

10 A. I was looking for any shoes, type of hiking shoes,
11 that might be there.

12 Q. Let me show you what has been marked as Exhibit
13 2378, Exhibit 2379, Exhibit 2380, and Exhibit 2395.

14 Do you recognize what is depicted in
15 those photographs?

16 A. Yes. This is the closet in the master bedroom,
17 which is Mr. DeMocker's room. There's cubbies or shelves for
18 the shoes, and there are several shoes here.

19 Q. So referring to Exhibit 2378, what is depicted in
20 that particular photograph?

21 A. It is the upper corner of the closet with shelves
22 and shoes.

23 Q. And Exhibit No. 2379, what is depicted in that
24 photograph?

25 A. It is a large shelf with many shoes.

1 Q. Is that in Mr. DeMocker's closet at Alpine
2 Meadows?

3 A. Yes.

4 Q. Both of these are?

5 A. Yes.

6 Q. And is this how they appeared when you went back
7 to execute the second search warrant?

8 A. Yes.

9 Q. And Exhibit 2380, what is depicted in that
10 photograph?

11 A. It is another stack of shelves, more shoes. These
12 are more tennis-shoes-type hiking shoes.

13 Q. Referring to Exhibit 2395, what is depicted in
14 that photograph?

15 A. It is a pair of La Sportiva tennis shoes, type of
16 hiking shoes.

17 Q. Were those shoes in Mr. DeMocker's closet when you
18 came back to execute the second search warrant on July the
19 3rd of 2008?

20 A. Yes.

21 MR. BUTNER: I would move for the admission of
22 Exhibits 2378, 2379, 2380, and 2395.

23 MR. SEARS: No objection.

24 THE COURT: 2378, 2379, 2380, 2395 are
25 admitted.

1 MR. BUTNER: May I publish, Your Honor?

2 THE COURT: You may.

3 BY MR. BUTNER:

4 Q. For the record, referring to Exhibit 2378, tell us
5 what is depicted in this, please.

6 A. This is the top corner of the closet, the shelves
7 that I mentioned, and the tennis shoes.

8 Q. And then Exhibit 2379.

9 Please tell us what is depicted in that
10 particular exhibit.

11 A. This is the shelf with many of Mr. DeMocker's, I
12 guess you can say, dress shoes.

13 Q. So you really weren't seeking dress shoes at this
14 time; is that correct?

15 A. Right.

16 Q. Let me show you what has been admitted into
17 evidence as Exhibit 2380.

18 Do you recognize what is depicted in that
19 exhibit?

20 A. Yes. Another shelf in the room with the tennis
21 shoes or hiking shoes. That is what I was interested in,
22 that type of shoe.

23 Q. And are the La Sportiva shoes depicted in that
24 exhibit?

25 A. Yes, sir, down here.

1 Q. Let me show you what has been admitted into
2 evidence as Exhibit 2395.

3 Do you recognize what is depicted in that
4 particular exhibit?

5 A. Yes. That is a close-up of the shoes that were on
6 the bottom shelf, the La Sportiva tennis shoes.

7 Q. How many pairs of La Sportiva tennis shoes, slash,
8 hiking shoes did you find?

9 A. One.

10 Q. Did you seize those?

11 A. Yes.

12 Q. As part of the items that you were seizing in the
13 search warrant?

14 A. Yes.

15 Q. Now, after -- you seized Mr. DeMocker's bike also;
16 is that correct?

17 A. Yes, I did.

18 Q. And after seizing Mr. DeMocker's bike, did you
19 take any other steps?

20 A. I had a deputy take the bicycle down to the
21 Glenshandra trail to do a comparison.

22 Q. And had you been out to the Glenshandra trail and
23 looked at those tire tracks?

24 A. Yes.

25 Q. While you were still out at the Bridle Path scene,

1 did you walk around the entire scene there at Bridle Path?

2 A. I walked the entire perimeter of the home along
3 the fence line, and towards the back of the property I saw
4 what appeared to be a shoe print.

5 Q. Were you taking special care not to disturb any
6 evidence when you were making this survey of the crime scene?

7 A. Yes, sir.

8 Q. And this shoe print that you observed, where was
9 it located, basically, around the Bridle Path residence?

10 A. It appeared to me that there's a fence line that's
11 made out of barbed wire. It was right on the other side,
12 inside the property.

13 Q. Just inside the barbed wire fence?

14 A. Yes.

15 Q. On the Bridle Path property at 7485 Bridle Path?

16 A. Yes.

17 Q. Did you point this out to people?

18 A. Yes, I did.

19 Q. To your knowledge was that particular shoe print
20 protected, so to speak, so that it would not be disturbed?

21 A. Yes.

22 Q. Do you know who was involved in looking at the
23 shoe prints and photographing them and so forth?

24 A. Yes. I instructed Detective Theresa Kennedy to
25 track the footprints and record them. I believe also

1 Detective -- correction -- Sergeant Daniels and Don Miller,
2 evidence tech, were also involved on the other end.

3 Q. When you say "on the other end," what are you
4 talking about?

5 A. We started tracking the footprints from both ends.

6 Q. And was Detective Theresa Kennedy also tracking
7 other footprints that were out there?

8 A. Yes, she was.

9 Q. Are you aware of where those originated?

10 A. Yes. They originated right by the end of the
11 fence on the Bridle Path property.

12 Q. When you say "the end of the fence," is there some
13 sort of a landmark there, so to speak, that you could refer
14 us to?

15 A. There is some sort of a wooden-type gate towards
16 the end.

17 Q. Was that a wooden-type gate that went out into the
18 open range land?

19 A. Yes.

20 Q. And had you been conferring with Detective Kennedy
21 about any footprints located in that area?

22 A. She advised me she had been following --

23 MR. SEARS: Hearsay.

24 THE COURT: Sustained.

25

1 BY MR. BUTNER:

2 Q. My question was: Had you conferred with Detective
3 Kennedy about any footprints that she had found in that area?

4 A. Yes, I did.

5 Q. And did you observe what Detective Kennedy did, at
6 least in part, in regard to those footprints?

7 A. She used her GPS, hand-held GPS, and tracked and
8 marked the footprints.

9 Q. Let me show you what has been marked as Exhibit
10 No. 2224.

11 MR. BUTNER: May I, Judge?

12 THE COURT: You may.

13 MR. BUTNER: Thank you.

14 Q. Do you recognize that particular item, Sergeant
15 Huante?

16 A. Yes. This is a CD that I created. I videotaped
17 the process of looking through Mr. DeMocker's cell phone.

18 Q. So tell us how you created this CD, please.

19 A. I set up a video camera on the cell phone as I
20 browsed through the different menus to see the contacts, the
21 text messages, the in-coming calls, the out-going calls.

22 Q. So you scrolled through Mr. DeMocker's cell phone?

23 A. Yes.

24 Q. Did you ask him for permission to do that?

25 A. No.

1 Q. Had you seized that as an item of evidence at that
2 point?

3 A. Yes, sir. And it was also included in our search
4 warrant.

5 Q. And in going through the cell phone, you
6 videotaped each of the screens on the cell phone?

7 A. That's correct.

8 Q. Approximately how long is that particular video of
9 Mr. DeMocker's cell phone?

10 A. At the most 20 minutes, 15 to 20 minutes.

11 MR. BUTNER: I would move for the admission of
12 Exhibit --

13 Q. When did you do this, by the way, Sergeant Huante?

14 A. July 7, 2008, around 10:00 a.m.

15 Q. July what?

16 A. Seven.

17 Q. July 7, 2008, approximately 10:00 a.m.?

18 A. Yes.

19 MR. BUTNER: I would move for the admission of
20 Exhibit 2224 at this time.

21 MR. SEARS: Few questions on voir dire?

22 THE COURT: You may.

23 VOIR DIRE EXAMINATION

24 BY MR. SEARS:

25 Q. Tell me how you went about retrieving the data

1 from this phone. What did you do?

2 A. I turned the phone on. It turned on. I browsed
3 through the menus. I went through the contacts. I went
4 through the text messages, in-coming calls, out-going calls.

5 Q. Any other menu items?

6 A. Not that I can remember right now.

7 Q. Did you skip any?

8 A. I don't believe so.

9 Q. Does that phone have an address book?

10 A. Yes, it did.

11 Q. Is that on the video?

12 A. Yes. It has the contacts.

13 Q. That is what is called the Address Book; contacts?

14 A. Yes.

15 Q. Are you familiar with something called "airplane
16 mode" on that particular phone?

17 A. I believe that is when it stops sending a signal
18 out, so when you are actually in a plane, it doesn't
19 interfere with the airplane.

20 Q. Prior to conducting the examination on July 7,
21 2008, did you place this phone in airplane mode?

22 A. No, I did not.

23 MR. SEARS: No objection.

24 THE COURT: 2224 is admitted.

25 MR. BUTNER: Judge, may I play it for the jury

1 at this time?

2 THE COURT: You may play it after lunch. It
3 is five minutes to 12:00. If we do 20 minutes or 15 minutes,
4 it is going to take us after.

5 We will take our recess at this point.
6 Remember the admonition. We will resume at 1:15.

7 (Whereupon, the jury exits the courtroom.)

8 THE COURT: Record reflects the jury has left.
9 The defendant and all counsel are present.

10 I don't know if you want the go over on
11 the record any jury questions so far, or if you want me to
12 wait until the completion of the examination of Sergeant
13 Huante. I am open to whatever you want to do. If we can get
14 a jump on them, meet back up here on the record at one
15 o'clock.

16 MR. SEARS: That would be fine, Your Honor.

17 MR. BUTNER: Quite frankly, Judge, I think it
18 is a good idea to push the jury questions until we are done.

19 THE COURT: Some may be covered.

20 MR. BUTNER: Exactly. I am hoping for the
21 most part they will be answered, at least by the time I get
22 done with direct on Sergeant Huante. I know we spend a lot
23 of time on the jury questions.

24 THE COURT: That we do.

25 MR. SEARS: That probably makes sense, Your

1 Honor, particularly if there are going to be more questions
2 as we go along.

3 THE COURT: I imagine there will be some of
4 them. I believe that we could have had last week -- the ones
5 that I have checked off that we still had from last week,
6 they are all up here, if either side needs to take a look at
7 them and cover them.

8 MR. BUTNER: The only exception that I am
9 talking about is the last question from Juror No. 8, and I
10 don't know that it is even a question.

11 THE COURT: It is not. I just wanted to make
12 sure that you all were aware that when he came in this
13 morning, he wanted to tell Phil his schedule of when the kids
14 are doing what, when the mother's surgery is and that sort of
15 thing, because we talked to him last week about that. And I
16 told Phil we are not going to meet with him beforehand. I
17 solicited to him, if he had something to say to us, put it in
18 writing.

19 MR. HAMMOND: Can I see that one, Your Honor?

20 THE COURT: That is what I had him do via the
21 bailiff. So he put it in writing and it gives us some notion
22 as to when the various scheduled items are for the kids. The
23 kids -- I don't think he specifies when they go out. We are
24 talking about if he is still on the jury on the 23rd, having
25 half a day or a little more than half a day.

1 MR. HAMMOND: He does say here he is asking
2 for half a day on the 23rd still.

3 THE COURT: Right. To deliver them to
4 Phoenix, since his wife doesn't drive.

5 MR. HAMMOND: Is this a note he did before we
6 spoke to him?

7 THE COURT: Yeah. That is the old one, and
8 the one in your right hand is the new one. Keeping them
9 handy for obvious reasons.

10 And another new question.

11 Stand in recess.

12 (Whereupon, a recess was taken at 11:58 a.m.
13 to resume at 1:15 p.m. of the same day.)
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JUNE 16, 2010
1:17 P.M.

(Whereupon, the following was held in
open court out of the presence of the jury.)

THE COURT: Record reflects the absence of the
jury, the presence of the defendant and the defense counsel
and the prosecutors.

You had something for me?

MR. BUTNER: Yes, Judge.

THE COURT: Or did you?

MR. BUTNER: No, we did.

Thing No. 1 is: We have the bicycle
here, and I had conferred with Madame Clerk, and she does not
want to take custody of the bicycle. Of course, everybody
knows the rules about that. So we are happy to do that, but
we would like to put the bike into evidence, so to speak,
that being a photograph of the bike, Exhibit 282.

THE COURT: Okay.

MR. BUTNER: So that is Exhibit 282.

Is that the photo of the bike?

THE WITNESS: Yes, it is.

THE COURT: Not a very good photograph of the
bike.

MR. BUTNER: I know.

Actually, I think I might have -- 283 and

1 284 are the tires. We already did some pictures from the
2 garage, but -- well, they are pulled, I guess. And then --
3 so that would cover the bike, 282, 283, 284.

4 And then Mr. Sears and I conferred
5 about --

6 MR. SEARS: A series of photographs that we
7 had marked, 2528 through 2542, inclusive. And I think that
8 the stipulation is that all of those may be admitted. 2528
9 through 2542.

10 THE COURT: 42?

11 MR. SEARS: Yes.

12 MR. BUTNER: And then --

13 THE COURT: Is that agreed upon?

14 MR. BUTNER: That is agreed upon, Judge. They
15 can all be admitted.

16 THE COURT: I can say this, I suppose, in open
17 court in front of the jury, but we will go ahead and admit
18 2528 through 2542, inclusive.

19 MR. BUTNER: Sergeant Huante was present when
20 a buccal swab was taken also from Edward McCullough. And the
21 clerk's office doesn't want those things in evidence either,
22 but we have a photograph of the buccal swab, and he can
23 testify about that. We would propose to admit that
24 photograph, Exhibit 484. That is also not a particularly
25 good photograph.

1 THE COURT: Any objection to 484 being
2 admitted, Mr. Sears?

3 MR. SEARS: Yeah. It's got six other buccal
4 swabs in there, and the operative one is circled. I am
5 pretty sure we are going to wind up stipulating to all of the
6 buccal swabs in that photo.

7 THE COURT: Are you offering it now and want
8 it in now?

9 MR. BUTNER: If there is no objection to that,
10 it would make things a little easier.

11 MR. SEARS: And this witness can talk about
12 the one that is circled at his convenience. We will
13 stipulate to 484. That is a photograph of seven buccal
14 swabs.

15 THE COURT: 484 is admitted.

16 MR. BUTNER: But the operative buccal swab has
17 been circled.

18 THE COURT: I understand.

19 MR. PAUPORE: 484 through what?

20 MR. BUTNER: 484, and then 2528.

21 THE COURT: Just so we are clear, 282 is
22 admitted by stipulation; 484 admitted by stipulation; and
23 then 2528 through 2542 by stipulation?

24 MR. BUTNER: That's correct, Your Honor.

25 THE COURT: Then I will announce that to the

1 jury when we get them back in.

2 May I see Mr. Sears, Mr. Butner off the
3 record, just a logistical matter.

4 (Whereupon, a discussion was held off the record.)

5 THE COURT: I would like to see counsel and
6 the defendant tomorrow morning at 8:30. We will resume the
7 defendant at 9:00.

8 Other issues before we get the jury back
9 in?

10 MR. BUTNER: None from the State.

11 THE COURT: Mr. Sears?

12 MR. SEARS: No, Your Honor.

13 THE COURT: All right. We will resume.

14 Phil, bring the jury back in please.

15 (Whereupon, the jury enters the courtroom.)

16 THE COURT: Please be seated. Thank you.

17 Record reflects the jury has returned to
18 the room. The defendant and defense team are here. The
19 prosecution team is here. Sergeant Huante is still on the
20 stand with direct testimony.

21 Ladies and gentlemen, the lawyers have
22 agreed that the following exhibits are admitted into
23 evidence: Photographs 282, 283, 284, 484, and 2528 through
24 2542, inclusive.

25 You may proceed, Mr. Butner.

1 MR. BUTNER: Thank you, Judge.

2 DIRECT EXAMINATION RESUMED

3 BY MR. BUTNER:

4 Q. Before we move onto a couple of other things,
5 Sergeant Huante, let's go back to the time when the search
6 warrant -- the second search warrant was served at Alpine
7 Meadows.

8 Okay. Approximately what time of day was
9 this?

10 A. It was around 6:00 p.m.

11 Q. And would you describe for us the process of how
12 this search warrant was served, please.

13 A. Detective Doug Brown and I approached the
14 residence. We went to the front door of the condo, and
15 Lieutenant Rhodes, Detective Diskin went to the garage area,
16 along with Steve Surak and Josh Nelson, I believe.

17 Q. Had you already gone by the garage area once you
18 went to the front door?

19 A. Where we parked, I had to pass an opening area
20 where there is a view of all the garages, and I could see
21 that it was open and the car was there.

22 Q. So you went by the --

23 A. Yes.

24 Q. -- the garage door area. The car, this is the
25 white Toyota, was parked there?

1 A. Yes.

2 Q. Part way in the garage?

3 A. Yes.

4 Q. And you looked in the garage there?

5 A. Yes.

6 Q. Saw the things that we have already talked about
7 that have been admitted into evidence; correct?

8 A. Yes.

9 Q. Then where did you go?

10 A. We went to the front door and we knocked.

11 Q. Tell us how you got to the front door. I know
12 that this may be a little tricky.

13 A. You have to go around that opening again, like a
14 patio area, and you walk around the building toward the
15 front.

16 Q. And the front door is actually located on the
17 outside of the building from the courtyard?

18 A. Yes.

19 Q. So you went to that door, and what did you do at
20 that point in time?

21 A. We knocked on the door and Mr. DeMocker answered.

22 Q. And what did you say to Mr. DeMocker?

23 A. We advised him we had another search warrant. I
24 gave him a paper of the search warrant, and he sat down and
25 proceeded to read it.

1 Q. So he sat down right there?

2 A. Yeah. There is some steps right there, going up
3 towards the living quarters.

4 Q. And when he sat down on the steps there and
5 proceeded to read the search warrant, then what did you do?

6 A. We began to do the search.

7 Q. Did you go through the front door and into the
8 garage area?

9 A. Yes.

10 Q. And the other members of the team, where were they
11 located?

12 A. They were in the garage already.

13 Q. And who was in the garage already?

14 A. It was Lieutenant Rhodes, Steve Surak and
15 Detective Ross Diskin.

16 Q. Okay. And, of course, when you went into the
17 garage, did you find the bicycle or had it already been
18 seized?

19 A. It had been seized already.

20 MR. BUTNER: Now, referring to the bicycle, we
21 actually have a photograph of the bicycle, which has already
22 been admitted into evidence as I understand; is that correct,
23 Your Honor?

24 THE COURT: Yes.

25 MR. BUTNER: Let me show you what has been --

1 THE COURT: No. 282.

2 MR. BUTNER: Thank you. This is sort of a
3 different kind of a picture, but let me show you what is
4 admitted into evidence as Exhibit 282.

5 Q. Do you recognize that?

6 A. Yes. It is the bicycle that I seized from the
7 garage.

8 Q. Now, is this the bicycle here in court?

9 A. Yes, it is. The problem with the picture is that
10 the tires are not placed on the frame.

11 Q. In this picture?

12 A. Yes.

13 Q. They are just set beside the bicycle; is that
14 correct?

15 A. Yes.

16 Q. Just to clarify the record, let me show you what
17 is admitted into evidence as Exhibit 283. That is two sheets
18 there; right?

19 A. Yes.

20 Q. And what are those?

21 A. The first photo is of the front tire. The last
22 photo is a close-up of the back tire.

23 Q. Okay. If I could see that for just a moment.

24 Okay. And then let me show you what's
25 been admitted into evidence as Exhibit 284.

1 A. First photo is of the front tire, a close-up, and
2 the last photo is the rear tire.

3 Q. Okay. So what we have in these exhibits -- let's
4 just refer to Exhibit 283, is we have got a close-up of the
5 rear tire attached to a far away photo of the front tire?

6 A. Yes.

7 MR. BUTNER: I think, Judge, it would make
8 sense to have these switched. We must have made -- we must
9 have confused these.

10 THE COURT: Why don't you see if you can
11 confer with Mr. Sears about that.

12 MR. BUTNER: I will show Mr. Sears what has
13 happened.

14 I am going to unstaple them and restaple
15 them, if Mr. Sears has no objection, switching them so they
16 get with the right tire.

17 MR. SEARS: No objection.

18 THE COURT: Are we then going to have one
19 exhibit that's paired up front tires, and one exhibit that's
20 paired up back tires?

21 MR. BUTNER: Exactly.

22 THE COURT: Then you can put on the record
23 which one is which.

24 MR. BUTNER: I will ask Detective Huante to do
25 that, so it is clear on the record. Would you put the

1 close-up of the back tire with the far away photo of the back
2 tire. And, of course, as things would work out, the exhibit
3 numbers are both on one set of photos, so we will have to
4 make an adjustment in that regard.

5 Q. I would propose, then, to clarify the record, I am
6 holding up these photos. Which tires are these?

7 A. Front.

8 MR. BUTNER: I would want this to be Exhibit
9 283, Your Honor, would be the front tires.

10 THE COURT: All right.

11 BY MR. BUTNER:

12 Q. And then Exhibit 284 would be the --

13 A. The back tires.

14 Q. The back tires; is that correct?

15 A. Yes.

16 THE COURT: The record will so reflect. And
17 the clerk is directed to re-mark the exhibits so that they
18 bear that marking. 283 for the front tires, 284 for the rear
19 tires, and as such, they are admitted.

20 BY MR. BUTNER:

21 Q. Detective Huante, would you come down from the
22 stand for us, please.

23 You are a mountain bike rider; aren't
24 you?

25 A. Yes.

1 Q. How long have you been riding mountain bikes?

2 A. Approximately four years now.

3 Q. And are you familiar with this brand of mountain
4 bike, this Gary Fisher?

5 A. Yes, I am.

6 Q. I need to get behind it, between the bike and the
7 jury.

8 THE COURT: The record can reflect the jury is
9 allowed to stand, if you wish to, to see the bike.

10 MR. BUTNER: Okay.

11 Q. Now, referring to this particular bike, I am
12 pointing at what?

13 A. The rear tire.

14 Q. Okay. Let's move it over there where the jury can
15 get a good look at that rear tire, please.

16 THE COURT: You can take it from one end to
17 the other, if you so choose.

18 Mr. Sears, you can certainly reposition
19 yourself, if you wish to.

20 MR. BUTNER: Okay.

21 Q. Now would you show them the front tire. And there
22 are -- are there two different treads on these tires? The
23 front is different from the rear?

24 A. Yes. The front tire is made so that you are able
25 to turn faster in dirt. The back tire is made so you can

1 grip more. That is why they have different patterns.

2 Q. Then there is some various items of equipment on
3 this bike. These are rather unusual looking pedals; right?

4 A. Yes. There are many types of clip-on pedals,
5 where the actual shoes have an accessory where you can clip
6 on to the pedal so you don't get released from the bike. So
7 you can pedal faster or go up hills and down hills.

8 Q. We have got some photos that we stipulated into
9 evidence that are photographs of those types of shoes.

10 THE COURT: 298.

11 BY MR. BUTNER:

12 Q. First of all, just to clarify the record, Exhibits
13 No. 2534, 2535, and 2536, do you recognize what is depicted
14 in these three exhibits, Sergeant Huante?

15 A. They are the pedals to the bicycle, close-up of
16 the pedals.

17 Q. Okay. I will put one of these up on the ELMO, so
18 the jury can see that.

19 THE COURT: 298 was not one of the exhibits
20 shown.

21 MR. BUTNER: That is Exhibit No. 2534.

22 Q. That is a close-up picture of the pedals?

23 A. That's correct.

24 Q. How do these pedals work?

25 A. These little metal parts here clip on to the shoe.

1 That has, like, a slide-in type of metal that you can just
2 slide your foot into the pedal.

3 Q. Okay. Hang onto the bike for a second.

4 Let me -- let's get a top view. Let me
5 show you what has been marked as Exhibit 2541. That is
6 already admitted into evidence.

7 And what is that?

8 A. These are a pair of clip-on bicycle shoes.

9 Q. Are these the ones that Mr. DeMocker had at his
10 residence, one of the pairs?

11 A. Yes.

12 Q. Do you recognize them?

13 A. Yes. He also told me that the brand was Lake.

14 Q. Then let me show you what has been admitted into
15 evidence as Exhibit 2542.

16 And what is depicted in that?

17 A. The bottom of the shoes, and here are the little
18 metal parts that attach to the shoe that clip on to the
19 pedal.

20 Q. So that is called a cleat?

21 A. Yes.

22 Q. When a person puts their foot into that pedal,
23 does it grip the shoe?

24 A. Just the metal part, just the metal part right
25 here.

1 Q. Is there a little trick to wiggle the shoe to get
2 it off?

3 A. You can slide your foot off in this way or slide
4 your foot out that way.

5 Q. So, you are not affixed permanently?

6 A. No. You can get out, yes.

7 Q. If you were to fall over; right?

8 A. Yes.

9 Q. Mr. DeMocker had some more pairs of those kinds of
10 shoes at his residence; right?

11 A. Right.

12 Q. Let me show you what is admitted into evidence as
13 Exhibit No. 2540.

14 Do you recognize that?

15 A. Yes. Again, it has the same type of metal
16 clip-on.

17 Q. Is this -- showing you Exhibit No. 2537, is this a
18 close-up version of the Lake shoes?

19 A. Yes, sir.

20 Q. You can tell by the red; right?

21 A. (Indicating.)

22 Q. Can you ride this bike without having these kind
23 of clip-on shoes?

24 A. Yes, you can.

25 Q. It just has kind of small pedals; right?

1 A. Right, but you can ride it.

2 Q. Showing you what is marked and admitted into
3 evidence as Exhibit 2543.

4 This is the bicycle without the tires
5 attached?

6 A. Correct.

7 Q. Okay. Now we have shown the jury the front and
8 the back tire, and we have talked about the pedals. Is this
9 sort of a -- is this a high end mountain bike, or low end, or
10 in the middle or what?

11 A. Usually high end bicycles have the different tread
12 patterns on the tires. If you go to Walmart, you will see a
13 bicycle, and they have the same tires on both sides for that
14 reason.

15 Q. What is this little fixture right here in the
16 middle of the bike?

17 A. This is so you can have a bottle of water holder
18 right here, and you can carry it with you.

19 Q. Does this have a dual suspension system on it, or
20 is it a single or what?

21 A. No. It is dual suspension. The fronts forks have
22 a shock right here, and the rear has a mono shock right
23 there.

24 Q. Is that the kind of bike that you ride?

25 A. I prefer the one piece, the solid one.

1 Q. And in regard to this bike, there is a little kind
2 of a black bag that is underneath the seat there. What is
3 that for?

4 A. Usually people carry their -- what I would carry
5 when I am on the bike is to carry bike packs, a pump, a CO²
6 carrier or patches. That is what I carry, and I have seen a
7 lot of other people do the same.

8 Q. You looked in that particular case?

9 A. Yes, I did.

10 Q. Were there any patches in that?

11 A. Yes, there was.

12 Q. There were tire patches in that kit underneath the
13 seat?

14 A. Yes.

15 Q. Did this bike have an air pump with it?

16 A. There is a pump that goes here, that attaches
17 right there.

18 Q. So when you seized the bike, was the pump
19 attached?

20 A. Yes.

21 Q. What happened to the pump?

22 A. It was removed, due to the fact that there was
23 some sort of evidence of blood sample on there that we
24 collected.

25 Q. So the air pump was removed from the bike and

1 transmitted to the lab?

2 A. Yes.

3 Q. So in addition to the pump, the air pump right
4 here and the patch kit on the back, what is this little black
5 case here?

6 A. This little case up here by the handle bars,
7 usually people carry their cell phone in there, or another
8 thing you can carry is your iPods. I carry my phone in
9 there.

10 Q. You have that on your bike, a little cell phone
11 case like that?

12 A. Yes, I do.

13 Q. And this particular bike, was it transmitted --
14 that is, was it carried out to the crime scene?

15 A. Yes. It was transported, I believe, by Deputy
16 Mark Kline.

17 Q. And what was the purpose of having the bike taken
18 out to the crime scene?

19 A. Due to the fact that I had seen the tire
20 impressions, the tire tracks at the scene that had different
21 patterns. The front tire pattern was different from the
22 back, and that is why I had it transported over there. As
23 soon as I saw this at the house, I saw the same thing.

24 Q. Now, these kinds of tires on this bike, are you
25 familiar with these kinds of tires? Have you seen these

1 kinds of tread patterns before?

2 A. Yes.

3 Q. Is this a common kind of a tread pattern?

4 A. It is. Several makers manufacture that type of
5 pattern, especially the front.

6 Q. In fact, do you have this kind of tire tread
7 pattern on your bike?

8 A. Yes, I do.

9 Q. How long have you had your bike?

10 A. I have had my bike for four years now. I have
11 switched tires about three times.

12 Q. How come you switched tires three times?

13 A. I've used -- the tread is gone, it has been used.
14 I rode close to 3,500 miles.

15 Q. And these kinds of tires -- did you have any flat
16 tires with yours?

17 A. All the time.

18 Q. Did you carry a patch kit on your bike?

19 A. Yes, I do.

20 Q. Have you had to patch it out on the road?

21 A. Yes, I have.

22 Q. How long did it take you to patch your tire out on
23 the road?

24 A. Ten, 15 minutes at the most.

25 Q. Put your patch kit on and pump it up?

1 A. Yes.

2 Q. And off you go to get another flat tire. Okay.

3 All right. I think that is enough on the
4 bicycle at this point in time. Thank you.

5 Now, let me show you -- well, I will back
6 up a minute. During the investigation of this case, did you
7 do some traveling?

8 A. Yes, I did.

9 Q. In fact, did you have to travel to the East Coast
10 at one point in time?

11 A. Yes, we did. We traveled to North Carolina and
12 South Carolina.

13 Q. And who did you travel with?

14 A. Detective Mike Poling.

15 Q. So the two of you went to North Carolina and South
16 Carolina?

17 A. Yes.

18 Q. At some point in time on that trip -- and by the
19 way, do you remember when that trip took place?

20 A. It was December 12, 2008.

21 Q. On that trip, did you meet up with a person named
22 Edward McCullough?

23 A. Yes, we did.

24 Q. Would you describe for us the circumstances under
25 which you met with Mr. McCullough.

1 A. We asked Mr. McCullough if he was willing to give
2 us a DNA sample or saliva sample.

3 Q. Why did you want to meet with Mr. McCullough?

4 A. Due to the fact that he at some point knew
5 Miss Kennedy.

6 Q. Did you have information that they were friends?

7 A. Yes.

8 Q. What was your information about them, in terms of
9 them being friends? Did you have information as to what kind
10 of time they had spent together?

11 A. I believe they did a lot of Internet chatting.

12 Q. But had they met in person?

13 A. Yes.

14 Q. And so what was the purpose of you meeting up with
15 Mr. McCullough?

16 A. Asking if he was willing to give us a sample, DNA
17 sample.

18 Q. Where did you meet with him?

19 A. We met with him at Hilton Head in South Carolina
20 at his lawyer's office.

21 Q. Did he give you a buccal sample?

22 A. Yes, he did.

23 Q. Let me show you what is admitted into evidence as
24 Exhibit 484. If you would take a look at that.

25 Do you recognize what is depicted in

1 Exhibit 484?

2 A. Yes. That's the little case where we put the
3 buccal swabs in.

4 Q. There is a number of buccal samples on that
5 particular photograph; isn't that correct?

6 A. Yes.

7 Q. But one of them is circled?

8 A. The bottom corner one.

9 Q. Is that the one that belonged to Mr. McCullough?

10 A. Yes.

11 MR. BUTNER: May I publish that to the jury,
12 Judge, very briefly?

13 THE COURT: You may.

14 MR. BUTNER: Thank you.

15 Q. That is not a very good photograph; is it?

16 A. No.

17 Q. But anyway, that is the buccal swab that you
18 obtained from Mr. McCullough. What was done with that buccal
19 swab?

20 A. We sent it to the lab so we could get a DNA
21 sample.

22 Q. Have it analyzed at the lab?

23 A. Correct.

24 Q. Is that the D.P.S. Northern Arizona Crime Lab?

25 A. Yes.

1 Q. And as part of your investigation, since you were
2 a mountain bike rider, did you go on a mountain bike ride?

3 A. Yes, I did. I learned the possible trail that
4 Mr. DeMocker rode.

5 Q. What trail was that?

6 A. The trail begins at the corner of Love Lane and
7 Shauna, which is off of Williamson Valley Road. It is not
8 marked. I would consider it a cow path.

9 Q. This cow path, is it between residences?

10 A. Yes. It is actually between residences and what
11 appears to be a pump house.

12 Q. Let me show you what is admitted into evidence as
13 Exhibit 2533.

14 Are you able to recognize what is
15 depicted in that? Do you recognize what is depicted in this?

16 A. I believe this is Love Lane here, and this is the
17 continuation of Love Lane here.

18 THE COURT: The jury had requested, is it
19 possible to put "north" at the top? Is that how this is set
20 up?

21 MR. BUTNER: I think that I have north at the
22 top.

23 THE COURT: Sergeant Huante, can you identify
24 whether north is at the top on that?

25 THE WITNESS: Yes, it is.

1 THE COURT: Thank you.

2 THE WITNESS: I believe this is --

3 BY MR. BUTNER:

4 Q. Okay. Let me show you a closer up photo, and I
5 will see if I can get it -- got it oriented.

6 MR. SEARS: That is Bridle Path, Mr. Butner?

7 MR. BUTNER: Yeah, that is. That is not it.
8 Here it is.

9 THE COURT: Before you lose track of it, the
10 number on this one?

11 MR. BUTNER: The number is 2532.

12 Q. Do you recognize what is depicted in that?

13 A. Yes. Here is the pump house I mentioned, and this
14 is the end of Love Lane here.

15 Q. Okay. So is there another road that comes into
16 Love Lane there that intersects?

17 A. Yes. This way you can go up and you go up to
18 Shauna and then Boone Court.

19 Q. And so those three streets kind of intersect at
20 that area?

21 A. Somewhere around here.

22 Q. Where does the bicycle path, or rather, where does
23 the trail -- I'm sorry, the trail proceed from? If you could
24 show us.

25 A. I believe it is right through here.

1 Q. Into that wash?

2 A. Yes.

3 Q. And whose residence is that just to the north of
4 the trail there?

5 A. I believe it is the Peterson's.

6 Q. And are -- would you show where the trail is
7 again?

8 A. I believe it is this one right through here.

9 Q. Basically right along that property line?

10 A. Yes.

11 Q. Are there any markings on that trail?

12 A. No.

13 Q. And then it goes into that wash right back there?

14 A. Yes, it does, and then it continues somewhat down
15 the wash, and then it picks up again somewhere over here.

16 Q. That particular trail, did you go and ride that
17 trail?

18 A. Yes, I did.

19 Q. On your mountain bike?

20 A. Yes.

21 Q. Would you describe for us what that trail was like
22 to ride on your mountain bike, starting right there at the
23 Love Lane intersection, so to speak.

24 A. This area here was very rough. At some points I
25 had to stop. Once I got to the wash, I had difficulty

1 because of the sand. I ran into a couple of horse riders. I
2 stopped. They came down the path, and I went up -- I
3 continued down the path. At some points I actually had to
4 pick up my bicycle to go over some of the boulders, because
5 they were so big. I was not able to ride over them.

6 I continued. The path was very small.
7 It was just a cow path, from what I could gather, and I
8 continued on that until I reached a marker that said Trail
9 347.

10 Q. And when you got to trail -- what number did you
11 get to?

12 A. 347.

13 Q. So what is the number of the trail there off of
14 Love Lane?

15 A. When I reached that trail marker, 347, I realized
16 that this trail here is 309.

17 Q. So you were on Trail 309, and then you rode your
18 bike or carried it part way up to where it joined 347?

19 A. Yes.

20 Q. What is the trail like at 347?

21 A. It is a little bit better. I was able to ride my
22 bicycle then. I practically rode my bike most of 347.

23 Q. Did you do a video of this ride that you took from
24 Love Lane on 309, up to Trail 347 and so on?

25 A. Yes, I did. I had my helmet cam that I placed on

1 my handle bars so I could show the terrain and the type of
2 path that it was.

3 MR. BUTNER: Let me show you what has been
4 marked as Exhibit 216.

5 May I approach, Judge?

6 THE COURT: You may.

7 MR. BUTNER: Thank you.

8 Q. Do you recognize that particular exhibit?

9 A. Yes.

10 Q. What is it?

11 A. It's a CD of my video.

12 Q. You prepared that CD?

13 A. Yes.

14 Q. Of the video of your ride?

15 A. Yes.

16 Q. When did you take this ride?

17 A. July 19 of 2008.

18 MR. BUTNER: I would move for the admission of
19 Exhibit 216 at this time, Your Honor.

20 THE COURT: Mr. Sears?

21 MR. SEARS: No objection, subject to the
22 Court's prior order.

23 THE COURT: 216 is admitted. Any record
24 previously made is also adopted.

25 MR. BUTNER: Thank you.

1 Q. Do you need to take some Dramamine to watch this,
2 Sergeant Huante?

3 A. I would.

4 Q. With that warning, would you now play it for us,
5 please. Okay. Let's back it up and hit start, please.
6 Don't play audio.

7 (Whereupon, a video recording is playing.)

8 BY MR. BUTNER:

9 Q. Now you entitled it Boone Court to Cayuse?

10 A. Yes.

11 Q. It is from the intersection of Love Lane to Boone
12 Court?

13 A. Yes.

14 Q. This is the back of the car?

15 A. Yes.

16 Q. Please tell us what is going to happen next.

17 A. This is the point where I began my bicycle ride.

18 This is the paved area of that area that was mentioned about
19 Boone Court and Shauna, where they meet. There is a house on
20 top and a house on the side.

21 Q. The house on the right is the Peterson residence?

22 A. As I go down here, the house on the right is going
23 to be Peterson.

24 Q. Okay. Is that the well house on the left?

25 A. Yes, right there.

1 Q. Are we on the trail now?

2 A. Yes.

3 Q. Are you riding your bike?

4 A. Yes. At some point here I am going to stop, due
5 to the fact there was too many boulders. This is where I
6 stopped. I had to move around the boulders. This is the
7 wash.

8 Q. Are you riding your bike at this point?

9 A. I am trying to. I stopped here.

10 Q. You picked your bike up and carried it?

11 A. Yes.

12 Q. Did you encounter any other bicycle riders while
13 you were on Trail 309?

14 A. No, I didn't.

15 Q. Are you riding or are you walking at this point?

16 A. I am walking now.

17 Q. Carrying your bike?

18 A. Yes. I am actually pushing it. There is going to
19 be some horse riders coming down from here.

20 Q. Is there another horse rider?

21 A. Yes.

22 Q. This is still part of the trail?

23 A. Yes.

24 Q. Are you riding your bike?

25 A. Again, I am trying. It was a steep incline where

1 the horses were coming down from.

2 Q. Are you riding or walking?

3 A. I had to stop due to the boulders, and there was
4 also a steep incline. I am riding again. And I stopped
5 again due to the boulders.

6 Q. Are you riding at this point?

7 A. Yes, I am.

8 Q. Are we still on Trail 309?

9 A. Yes.

10 Q. Are you still riding?

11 A. Yes.

12 Q. Is Trail 309 the only way onto Trail 347 from Love
13 Lane?

14 A. No.

15 Q. What is another way that you are aware of?

16 A. I have parked at the trailhead on Williamson
17 Valley Road and rode my bicycle down 347, all the way down
18 through Granite Mountain.

19 Q. So you can get onto that trail from the Williamson
20 Valley trailhead?

21 A. Yes.

22 Q. Would you describe what the Williamson Valley
23 trailhead is like for us, please.

24 A. There is a large parking area where people with
25 horses can park their trailers. There is a bathroom. The

1 trail is very smooth for the most part. You can ride without
2 having to go through bumps and boulders.

3 Q. Are you still riding now?

4 A. Yes.

5 Q. So you are not riding at this point?

6 A. No. I had to stop again.

7 Q. Do you recognize where you're at on the trail at
8 this point?

9 A. Yes. There is a gate here. Once I cross the
10 gate, the road gets a little bit better.

11 Q. Have you intersected Trail 347 yet?

12 A. No, not yet.

13 Q. Did you get scratched on this trail ride?

14 A. No.

15 Q. On your bike, do you have toe clips?

16 A. No, I don't. They are called shovel pedals, which
17 are large pedals with spikes in them.

18 Q. Have you ever ridden on a bike with toe clips?

19 A. I don't like the feel of it.

20 Q. What about on a trail like this? What would it be
21 like for you to ride with toe clips?

22 MR. SEARS: Foundation.

23 THE COURT: Sustained.

24 BY MR. BUTNER:

25 Q. What are the problems that you have encountered in

1 riding with toe clips? What is the disadvantage?

2 A. If you are on a rocky road or a bumpy road, such
3 as this, you would have to stop and unclip several times.

4 Q. So that you could walk your bike, you mean?

5 A. Correct.

6 Q. Do you recognize where we are at right now?

7 A. I am nearing the intersection of 347 and 309.

8 Q. And we have paused here on the video; is that
9 correct?

10 A. Yes. Due to the fact that I did not know where
11 309 was at, I took a map with me, and I periodically stopped
12 to make sure I was on the right trail.

13 Q. Is that what you are doing right now?

14 A. Yes.

15 Q. And you are riding again at this point; is that
16 correct?

17 A. Yes.

18 Q. Now, this portion of the trail, is this different
19 than the earlier portion?

20 A. Yes, it is.

21 Q. What is the difference?

22 A. This is a more established trail where, I believe,
23 it is even maintained.

24 Q. We just rode by some sort of a post. Do you know
25 what that was about?

1 A. Yes. That was a marker that stated it was 309.

2 Q. Thank you. Is there a reason why we are looking
3 at that marker?

4 A. I was looking at another sign that advised me the
5 trail marker's numbers and distances. I believe it is on the
6 other side of me.

7 Q. Does your bike have a light on it?

8 A. No.

9 Q. So you are trying to figure out distance at this
10 point?

11 A. Yes.

12 Q. Now, you haven't been on Trail 309 before this;
13 right?

14 A. No.

15 Q. Have you been on Trail 347 before this?

16 A. Yes.

17 Q. Can you ride Trail 347 in the dusk or while the
18 sun is going down?

19 A. You probably could, but you probably would need
20 some sort of light.

21 Q. Are there other mountain bike tracks along the
22 trail at this point?

23 A. I do believe I saw some, but they were kind of
24 faded.

25 Q. You are still riding your bike; correct?

1 A. Yes.

2 Q. Please let us know when we are going to join Trail
3 347.

4 A. I believe we are on that now.

5 Q. When did that happen?

6 A. Where I stopped and was looking at my map and
7 looking at that pole.

8 Q. That pole that we stared at is where you joined
9 347?

10 A. Yes.

11 Q. Is there a mark on that pole?

12 A. No.

13 Q. And where does this -- where does this trail take
14 you to?

15 A. It leads you to Trail 346, which turns into Cayuse
16 day use trail over by Granite Basin Lake.

17 Q. Did you ride the entire way?

18 A. Yes, I did.

19 Q. At this point in time, is this trail wider and
20 flatter than the trail at Love Lane?

21 A. Yes. I would estimate at some areas it is up to
22 six feet wide.

23 Q. And how wide was the trail, basically, at Love
24 Lane?

25 A. If it was two feet in one area, that was big.

1 Q. Is the remainder of the trail ride basically like
2 this?

3 A. Yes, it is.

4 Q. Is it relatively uneventful, then?

5 A. Yes.

6 Q. Why don't we fast forward, then, through that.

7 MR. SEARS: No thanks, Your Honor. I think we
8 ought to see it the way it is filmed.

9 THE COURT: Hold on.

10 MR. BUTNER: Okay.

11 Q. Is it going fast now?

12 A. No.

13 Q. Okay. Are you riding right now?

14 A. I believe I stopped here just to double check the
15 map.

16 Q. Is there a fork in the trail at this point?

17 A. I don't think so. I just wanted to make sure I
18 was on the right one.

19 Q. Do you recognize where we are at now on the trail?

20 A. I am still at 347. There was a cow tank on the
21 left of us.

22 Q. Approximately what time of day were you making
23 this ride?

24 A. I began my ride at 5:14 in the afternoon.

25 Q. Have we joined the other trail yet?

1 A. No.

2 Q. Are we still on Trail 347?

3 A. Yes.

4 Q. Are we getting close to 346?

5 A. I am going to be stopping here in a little bit,
6 and you are going to see Granite Mountain to the right and
7 soon after that is 346.

8 Q. Is that the fork in the trail?

9 A. Yes.

10 Q. Are we on a different trail now?

11 A. There is another trail that takes you in a
12 different direction, but I continued on 347.

13 Q. Okay. Are we still on 347?

14 A. Yes.

15 Q. Are we getting close to 346?

16 A. A little bit further.

17 Q. Okay. Will you tell us when we get to 346,
18 please.

19 A. I will.

20 JUROR NO. 2: We don't have to watch the ride
21 back; right?

22 THE WITNESS: We are getting close. This is
23 where I stopped to show there is Granite Mountain to the
24 right of it.

25

1 BY MR. BUTNER:

2 Q. What's that?

3 A. On the other side of this gate is Trail 346, which
4 leads to Cayuse. That is 346.

5 Q. So are you headed down toward the Granite Basin
6 picnic area?

7 A. Yes. It is near what is called Cayuse, which is
8 maybe 500 yards from the picnic area and camping area from
9 Granite Basin Lake.

10 Q. Is this the Cayuse area?

11 A. Yeah. This is the parking area for vehicles in
12 the Cayuse day area. In a moment you will see a sign for the
13 park. And I also stop to see the map. Then I return.

14 Q. But that is the end of the tape; right?

15 A. Yes, sir. I did not record on the way back.

16 Q. Thank you. I suggest you keep your day job.

17 So we can turn this off now?

18 A. Yes.

19 THE COURT: If you all don't mind, I think I
20 will take the break now.

21 MR. BUTNER: I think that would be a great
22 idea, Judge.

23 THE COURT: Remember the admonition, please.
24 We will take a 15 minute recess.

25 (Whereupon, the jury exits the courtroom.)

1 THE COURT: The record can reflect the jury
2 has left. Sergeant Huante is still here. You can step down.
3 Mr. Butner, Mr. Paupore is still here. Mr. Sears and
4 Ms. Chapman and Mr. Hammond and the defendant.

5 I did get a bunch of juror notes after or
6 during that. You are welcome, in the interim, to take a look
7 through these, if you choose to.

8 (Brief recess.)

9 (Whereupon, the jury enters the courtroom.)

10 THE COURT: The record reflects the jury has
11 returned. The defendant and his three counsel are here, and
12 the prosecutors are here as well, and Sergeant Huante is
13 still on the stand on direct.

14 Mr. Butner.

15 MR. BUTNER: Thank you, Judge.

16 DIRECT EXAMINATION RESUMED

17 BY MR. BUTNER:

18 Q. Let's go back to the Bridle Path scene for a
19 minute, if you would.

20 When you were at the Bridle Path scene,
21 did you coordinate a canvass of the neighborhood for people
22 that had witnessed anything out of the ordinary?

23 A. Yes, we did.

24 Q. And did you contact any people that were riding
25 horses in the area?

1 A. I believe that Detective Shonna Willingham spoke
2 with them.

3 Q. And what information -- well, first of all, did
4 you find out where the horse riders were from?

5 A. Just neighbors.

6 Q. And so this was information obtained by Detective
7 Willingham?

8 A. That's correct.

9 Q. Did you communicate any information to Detective
10 Willingham and Detective Rhodes about what you had found at
11 the autopsy?

12 A. Yes, I did.

13 Q. What information did you pass onto them?

14 A. The type of injuries, possible weapon, and also
15 that I had learned that there was -- let me go back. I knew
16 that she had been on a run. She had run that afternoon out
17 in the area called Deep Wood.

18 Q. Right. So you communicated to Detective Rhodes
19 and Detective Willingham the possible injuries -- or rather
20 the possible instrument causing the injuries?

21 A. Yes.

22 Q. Which --

23 A. -- Was a golf club.

24 Q. You told them that Dr. Keen had indicated that the
25 injuries were consistent with a golf club?

1 A. Yes, but I also advised them that I wanted them to
2 collect anything they found out there.

3 Q. When you say anything they found out there, what
4 are you referring to?

5 A. Anything that could be considered evidence. I
6 don't care if it is a piece of paper or a rock.

7 Q. For what reason were you communicating this
8 information to Rhodes and Willingham? What were they doing?

9 A. They were out in a canvass search. I thought you
10 were speaking about the search of the backyard area.

11 Q. Did Rhodes and Willingham search anything else
12 around the residence to your knowledge?

13 A. Not to my knowledge.

14 Q. But you had provided them with that information?

15 A. Yes.

16 Q. Did you go back at some point in time to conduct a
17 better search of the area that was located to the east of
18 Bridle Path, that is the area out on the Deep Well Ranch?

19 A. Yes.

20 Q. When did you do that?

21 A. July 6 of 2008 at 6:00 a.m.

22 Q. First of all, why did you go out there at 6:00
23 a.m.

24 A. It is warm in July.

25 Q. Because it was cooler at 6:00 in the morning?

1 A. Yes.

2 Q. Who accompanied you for this search at 6:00 a.m.
3 on July 6, 2008?

4 A. Detective Theresa Kennedy, Detective Steve Surak,
5 and several members of the Yavapai County Back Country Search
6 and Rescue Team.

7 Q. Would you describe for us how you conducted that
8 search.

9 A. The Back Country Search conducted what they call a
10 line search, where they stand next to each other and walk
11 down the line, searching.

12 Q. Where did this search take place?

13 A. That took place right on the Deep Well area, which
14 is right behind the victim's house.

15 Q. Let me show you what has been admitted into
16 evidence as Exhibit 2312.

17 Would you show us where this back country
18 search took place?

19 A. The area that we searched was --

20 Q. They can't see. Show us where the back country
21 search took place, please.

22 A. Right around this area behind the house.

23 Q. Did you start the search up by Glenshandra?

24 A. Yes, we did.

25 Q. Did you go further north of Glenshandra?

1 A. I did.

2 Q. Where did you go?

3 A. I traveled all the way down to this wash from
4 here, down here, and then back here, and then back and in
5 between.

6 Q. And searched all of that area in there?

7 A. Yes, I did.

8 Q. What were you looking for?

9 A. Anything that could be used or considered
10 evidence.

11 Q. Would you show us the area that was searched by
12 you and the members of the Back Country Team?

13 A. They began at the Glenshandra location, and moved
14 towards the victim's house and past the victim's house,
15 several houses.

16 Q. Okay. And how far out into the open range land
17 did they go when they were searching?

18 A. There is a little dry wash here. They went as far
19 as that.

20 Q. How many feet from the fence is that, the barbed
21 wire fence back into the open range land?

22 A. I would estimate at least 500.

23 Q. Was anything found during this search?

24 A. They found a short piece of rebar and a piece of
25 paper with some information that turned out to be not

1 related.

2 Q. And a piece of rebar?

3 A. Yes.

4 Q. What was done with the rebar?

5 A. Collected.

6 Q. And when you say "collected," you mean collected
7 as evidence?

8 A. Yes.

9 Q. And then what was done with it after it was
10 collected?

11 A. It was entered into our evidence and possibly
12 shown to Dr. Keen or Dr. Fulginiti, who are the forensic
13 examiners, to see if it could be used as a possible weapon.

14 Q. Now, while we have this map up here, can you show
15 us at least part of where you were riding on the trails in
16 your video?

17 A. I rode from somewhere right about here, down 309,
18 347, and 346 is down here somewhere. And then it comes back
19 around to the Cayuse use area.

20 Q. Would you slowly trace that again for the members
21 of the jury, so they can see where that ride went?

22 A. (Witness complies.)

23 Q. Show it from Love Lane again, please. So that is
24 where you passed between the well house and the Peterson's
25 house?

1 A. Yes.

2 Q. And then into the wash area?

3 A. Yes.

4 Q. And then onto 309, and up there where it joined
5 347, and all along 347 until you finally got to 346?

6 A. Which is down here somewhere.

7 Q. Which is off the map; right?

8 A. Yes.

9 Q. Okay. In regard to the flat tire that was on
10 Mr. DeMocker's bike, did you check that flat tire, so to
11 speak? Examine it?

12 A. Yes. I attempted to put air in it, and it would
13 not allow me to due to the fact that the stem separated from
14 the rubber.

15 Q. Did that happen while you were trying to inflate
16 it?

17 A. Yes.

18 Q. Were you ever able to find out what the nature of
19 Mr. DeMocker's flat tire was, whether it was that stem or
20 someplace else on the tire?

21 A. No, I could not tell.

22 Q. What was the condition of that tire, basically?

23 A. It is pretty old. It is somewhat dry rotted,
24 almost, I would say.

25 Q. When did you try to inflate the tire?

1 A. About a week after I collected it, a week or so
2 after that.

3 Q. So about a week after the homicide?

4 A. Yes.

5 Q. Now, when you were interviewing Mr. DeMocker, did
6 he have any question of you near the outset of that
7 interview?

8 A. No. He just kept advising me that he was tired,
9 dehydrated, and if we were going to be able to conduct our
10 interview as soon as possible so he could leave.

11 Q. Was there anything unusual about your interview
12 with Mr. DeMocker that you had not experienced in
13 interviewing prior suspects?

14 A. Yes.

15 Q. What was that?

16 A. I have never been asked, "Am I a suspect?"

17 Q. When did Mr. DeMocker ask you that?

18 A. When we were speaking at the scene, when he
19 arrived in his vehicle at the Bridle Path address.

20 Q. And had you even determined whether Ms. Kennedy's
21 death was an accident or some other type of death at that
22 point in time?

23 A. No. It appeared suspicious to me, but when he
24 asked me that question, I kind of thought, well, I need to
25 focus on Mr. DeMocker, too, now.

1 Q. Speaking of focusing on Mr. DeMocker, you saw
2 Mr. DeMocker's scratches; right?

3 A. Yes.

4 Q. And we've already put those photographs into
5 evidence.

6 Where were scratches located on his body
7 that you noticed?

8 A. Most of the scratches were on his arm, his leg. I
9 believe it was his left arm and leg, but he also had another
10 scratch on his right leg that was rather large, too.

11 Q. And did you ask him how he got that scratch on his
12 right leg?

13 A. No, I did not. The only time I asked him about
14 the scratches was when we were conversing about his bike
15 ride, and he advised me he had brushed up against something
16 while riding.

17 Q. Did he indicate which side he brushed up against
18 something with?

19 A. I believe he motioned like the left side.

20 Q. Pursuant to the search warrant, one of the things
21 that you seized was Mr. DeMocker's cell phone; is that
22 correct?

23 A. Yes.

24 Q. And you examined Mr. DeMocker's cell phone by way
25 of a video?

1 A. Correct.

2 Q. While you scrolled through it?

3 A. Yes.

4 Q. So this is another Luis Huante video production;
5 is that correct?

6 A. That's correct.

7 Q. I know everybody has been waiting eagerly for
8 another one. This has been admitted into evidence as
9 Exhibit -- I believe it is 216. No.

10 MR. BUTNER: It is Exhibit 2224, I believe,
11 Judge; right?

12 THE COURT: Yes.

13 MR. BUTNER: Can he come down from the stand,
14 Your Honor?

15 THE COURT: Yes.

16 MR. BUTNER: So he could play this for us.

17 (Whereupon, a video recording is playing.)

18 JUROR NO. 2: Can you tell us the date this
19 was made again.

20 BY MR. BUTNER:

21 Q. Can you tell us when you actually did this,
22 Sergeant Huante?

23 A. It is about to come up there.

24 Q. Can you tell us?

25 A. It is July 7, 2008 at 10:10.

1 Q. And you are scrolling through the contact list at
2 this point; is that correct?

3 A. That's correct. As I was scrolling, the phone
4 began to take in messages.

5 Q. So what did you do about that?

6 A. Sometimes I put "listen now," or I saved it so I
7 could listen to it later.

8 Q. There isn't a video with this, is there?

9 A. What is that?

10 Q. I mean, there isn't an audio with this, is there?

11 A. No.

12 Q. Okay. Are these text messages?

13 A. Yes. This is the in-box.

14 Q. Now this shows when the text came in and then also
15 when it was stored till; is that correct?

16 A. This is when the text originally came in, but
17 since the phone was most likely off, it was stored at this
18 time on the phone.

19 Q. Okay. So that is a "sent" text; is that correct?
20 "Can you give me the courtesy of a response to my question of
21 picking up the X-3 or my e-mail also?"

22 A. That text was sent, but it came back to the phone.

23 Q. Okay. And it came back at 10:08?

24 A. Yes.

25 Q. This is from Charlotte at 3:22 in the afternoon

1 about bringing some cookies?

2 A. Yes.

3 Q. And this is from Carol on July 2nd at 1:55 p.m.?

4 A. Yes.

5 Q. Talking about Katie's car?

6 A. Yes.

7 Q. This is from Katie; right?

8 A. Yes.

9 Q. "Safely in Barcelona" on June 29.

10 Now we are back into May; is that right?

11 A. Yes.

12 Q. These are sent text messages now?

13 A. Correct.

14 Q. This was sent on what day?

15 A. July 2nd at 10:35.

16 Q. "Must have cookies, huh?"

17 This is the contact list; right?

18 A. Yes.

19 Q. Are you done?

20 A. Yes.

21 MR. BUTNER: Thank you.

22 We have some recently marked exhibits,
23 Judge, that apparently are not in order. The defense needs a
24 moment, if we could just have a few.

25 THE COURT: Sure. Anybody that wants to stand

1 and take a stretch, feel free.

2 MR. BUTNER: May I approach the witness for a
3 moment, Judge?

4 THE COURT: You may.

5 BY MR. BUTNER:

6 Q. Before we move to this next area, you saw those
7 messages in the text messages about Katie's car and going out
8 to pick up Katie's car, the X-3 at Carol's house?

9 A. Right.

10 Q. Did you ask Mr. DeMocker about that during your
11 interview?

12 A. I believe he mentioned that he had sent a message
13 that he wanted to come and pick up the vehicle.

14 Q. Did he indicate to you whether he had actually
15 gone and picked up Katie's car?

16 A. I believe he said he changed his mind, or I am not
17 exactly sure what the wording was. For some reason he didn't
18 go.

19 Q. When you went to the residence, Katie's car, the
20 X-3, was it still at the Bridle Path residence?

21 A. Yes, it was.

22 Q. And when did the text message indicate that
23 Mr. DeMocker was going to be going out or should come and get
24 the X-3?

25 A. That afternoon.

1 Q. Did Mr. DeMocker tell you that he had planned to
2 go out there to pick up the X-3?

3 MR. SEARS: Your Honor, the statements speak
4 for themselves. We have all of the statements.

5 THE COURT: Overruled. You may answer.

6 THE WITNESS: Ask again, please.

7 BY MR. BUTNER:

8 Q. Did Mr. DeMocker tell you that he had planned to
9 go out there that evening and pick up the X-3?

10 MR. SEARS: Foundation as to date, time and
11 place for this conversation.

12 MR. BUTNER: I can lay foundation, if
13 necessary, Judge.

14 THE COURT: I will sustain the objection.

15 Go ahead.

16 BY MR. BUTNER:

17 Q. During the interview that you had with
18 Mr. DeMocker, at any point in time -- beginning with the
19 interview at the scene and continuing with the interview
20 through the morning hours of July the 3rd of the year 2008,
21 at any point in time in those contacts with Mr. DeMocker, did
22 he tell you he planned to go out to Katie's house -- I'm
23 sorry, that he planned to go out to Carol's house to pick up
24 the X-3, Katie's car?

25 A. Right. He did state that.

1 Q. Did he give you a reason why he didn't pick it up?

2 A. I don't remember a reason why he did not go.

3 Q. But the car was still there when you arrived at
4 the homicide scene; is that correct?

5 A. Yes.

6 MR. BUTNER: May I approach, Judge?

7 THE COURT: You may.

8 MR. BUTNER: Thank you.

9 Q. I would like to show you what has been marked as
10 Exhibit No. 2545 and 2546.

11 And I would ask if you recognize what is
12 depicted in those two photographs?

13 A. Yes. This is the Hassayampa Golf Club. I believe
14 it is Hole No. 8.

15 Q. And did you visit the Hassayampa Golf Course, Hole
16 No. 8, within the past six months?

17 A. Yes, I did.

18 Q. When did you visit that hole?

19 A. April 9th of this year.

20 Q. April 9th of 2010; is that correct?

21 A. Yes.

22 Q. In whose company did you visit that particular
23 hole on the golf course?

24 A. Myself, Detective Frank Barbaro, Lieutenant Dave
25 Rhodes, and I believe there was Renee Girard.

1 Q. Was Renee Girard leading the expedition, so to
2 speak, on Hole No. 8?

3 A. Yes.

4 Q. And what was the purpose of going out to Hole No.
5 8 on the golf course -- what was the date again?

6 A. April 9.

7 Q. -- on April 9 of this year?

8 A. Miss Girard had told us that --

9 MR. SEARS: Hearsay. Hearsay.

10 THE COURT: Sustained.

11 BY MR. BUTNER:

12 Q. What was your understanding as to why we were all
13 going out to the golf course on April 9th, 2010?

14 A. There was a bag with money and some items buried
15 in that area.

16 Q. What was the purpose of this bag that was buried
17 out in that area to your understanding?

18 MR. SEARS: Foundation.

19 THE COURT: Sustained.

20 BY MR. BUTNER:

21 Q. Had Miss Girard been interviewed in connection
22 with this bag?

23 A. Yes.

24 Q. And had arrangements been made for Miss Girard to
25 lead law enforcement officers out to the Hassayampa Golf

1 Course and assist in locating the bag?

2 A. That's correct, yes.

3 Q. Is this the date on which she was doing that?

4 A. Yes.

5 Q. In fact, was she accompanied by her lawyer when
6 this took place?

7 A. That's correct.

8 Q. And is that how the golf course Hole No. 8
9 appeared on the date that you went out there with Renee
10 Girard on April the 6th, I believe did you say?

11 THE COURT: 9th.

12 BY MR. BUTNER:

13 Q. April 9th of 2010?

14 A. Yes.

15 MR. BUTNER: I would move for the admission of
16 2545 and 2546, Judge.

17 MR. SEARS: Relevance. Foundation.

18 THE COURT: Overruled. 2545 and 2546 are
19 admitted.

20 MR. BUTNER: Let me show you what has been
21 admitted as 2547 and 2548.

22 Q. Do you recognize what is depicted in those two
23 photographs?

24 A. Yes. It is some boulders and some trees, some
25 dead brush. That was the area that we found the bag in.

1 Q. Is this the area that Ms. Girard led you to?

2 A. Yes.

3 Q. And where was it located relative to Hole No. 8 on
4 the Hassayampa Golf Course?

5 A. I believe it was south of Hole No. 8.

6 Q. Okay. It was south of Hole No. 8 and --

7 A. Approximately 25 yards.

8 Q. Was it over through the rough and down toward a
9 creek off of Hole No. 8 at the Hassayampa Golf Course?

10 MR. SEARS: Leading, Your Honor.

11 THE COURT: Sustained.

12 BY MR. BUTNER:

13 Q. Was it off of the main part of the golf course,
14 Detective Huante?

15 A. Yes, it was.

16 Q. Would you describe where it was located relative
17 to the golf course?

18 A. About 25 yards south of Hole No. 8. There is a
19 little trail that takes you down to the dry wash. There was
20 some boulders and a dead yucca tree in the area.

21 Q. In fact, are there resident's homes on the
22 opposite side of that creek area?

23 A. Yes.

24 Q. So the golf course comes to an end at that area;
25 is that correct?

1 MR. SEARS: Leading.

2 THE COURT: Overruled.

3 THE WITNESS: Yes.

4 MR. BUTNER: I move for the admission of 2547
5 and 2548.

6 MR. SEARS: Relevance.

7 THE COURT: Overruled. 2547 and 2548 are
8 admitted.

9 MR. BUTNER: Let me show you what has been
10 marked as Exhibit No. 2549 and 2550. If you could take a
11 look at those two photographs, please.

12 Q. Do you recognize what is depicted in Exhibit 2549?

13 A. Yes.

14 Q. What is that?

15 A. This was a black trash bag that was pulled out of
16 the area, along with a blue dry bag.

17 MR. SEARS: Your Honor, the witness is
18 testifying from an exhibit not in evidence. He just told us
19 what it is in detail.

20 THE COURT: Overruled.

21 BY MR. BUTNER:

22 Q. We are at 2549 and 2550. Let's look at 2549,
23 please.

24 A. Yes.

25 Q. Looking at Exhibit 2549, where was that located?

1 A. That was near the boulders and the yucca tree down
2 by the dry wash.

3 Q. Is this the way it appeared on April 9th of the
4 year 2010 when you were out there 25 yards off of Hole No. 8?

5 A. Yes.

6 Q. And then referring to Exhibit No. 2550, what is
7 depicted in that particular exhibit?

8 A. Again, it is a black trash bag and the blue dry
9 bag.

10 Q. And where was that found?

11 A. Together in the ground, semi-buried.

12 Q. So is that another picture of the bag that was
13 located between the yucca and the boulder out off of Hole
14 No. 8?

15 A. Yes.

16 MR. BUTNER: I would move for the admission of
17 Exhibits 2549 and 2550.

18 MR. SEARS: No objection.

19 THE COURT: You have seen these, Mr. Sears?

20 MR. SEARS: I said no objection, I'm sorry.

21 THE COURT: Thank you. I didn't hear.

22 2549 and 2550 are admitted.

23 MR. BUTNER: May I publish, Your Honor?

24 THE COURT: You may.

25 MR. BUTNER: Thank you.

1 For the record I am showing Exhibit No.
2 2546. I am going to show 2545 first. Here is 2545.

3 Q. What is depicted in 2545?

4 A. Hassayampa Golf Course, Hole No. 8.

5 Q. Do you know where Mr. DeMocker's residence is
6 located relative to Hole No. 8, 2545?

7 A. I believe it is northeast of this area.

8 Q. You are pointing to the south now?

9 A. Sorry. Then it is the other direction.

10 Q. How many fairways across the golf course is it; do
11 you know?

12 A. No, I don't.

13 Q. This is Exhibit 2545. We are at Hole No. 8;
14 right?

15 A. Yes.

16 Q. What is depicted in Exhibit 2546?

17 A. This is the area that she led us to. She led us
18 down this path, down around this area back here.

19 Q. You are not a golfer; are you, Luis?

20 A. No.

21 Q. Right down through the center there, is that a
22 large, wide, grassy area on the golf course?

23 A. Correct.

24 Q. Sometimes people call that a fairway. Have you
25 ever heard that?

1 A. I believe so. Never played.

2 Q. I understand. Off to the right is where Renee
3 Girard took you; is that correct?

4 A. That's correct.

5 Q. Would you point to the area off to the right where
6 she took us.

7 A. (Indicating.)

8 Q. Right down in that area?

9 A. Yes.

10 Q. And then dropping down to the side?

11 A. Down towards the wash.

12 Q. Then let me show you what has been marked as
13 Exhibit 2547.

14 Do you recognize what is depicted in that
15 particular exhibit?

16 A. These are the boulders and the dry brush that I
17 was mentioning.

18 Q. And the yucca plants?

19 A. Yes.

20 Q. Where are they located?

21 A. Up here.

22 Q. How about right in front of that boulder? Are
23 there yucca plants right in front of that boulder in the
24 center of the picture?

25 A. I am having trouble seeing where.

1 THE COURT: You can get down and look at the
2 original, if you choose.

3 MR. BUTNER: Thank you.

4 Q. Do you see the boulder in the center of the
5 picture?

6 A. Yes.

7 Q. Point to it, please.

8 A. (Indicating.)

9 Q. Do you see right immediately to the left of that
10 boulder, right there, that there are yucca plants?

11 A. Yes.

12 Q. Let me show you now Exhibit 2548. And you can
13 step down, if you want, Luis, so can you see the picture
14 better.

15 Do you see that boulder in this picture?

16 A. Yes, right here.

17 Q. There is a yucca plant right in front of it?

18 A. Yeah, right there.

19 Q. Do you see anything buried in the yucca plant
20 right in front of it?

21 A. Right there.

22 Q. What was buried in that yucca plant right in front
23 of the boulder?

24 A. That was the black trash bag with the blue short
25 dry bag.

1 Q. Would you tell us what a dry bag is basically?

2 A. A dry bag is one of these bags that you put stuff
3 so that it doesn't get wet while you are out kayaking or
4 rafting.

5 Q. And then let me show you what has been admitted
6 into evidence as Exhibit 2549.

7 Do you recognize that?

8 A. Yes. This is the black trash bag and that is the
9 blue dry bag.

10 Q. Was the trash bag wrapped around the blue dry bag?

11 A. Somewhat.

12 Q. But kind of torn off?

13 A. Yes.

14 Q. And then let me show you what has been admitted
15 into evidence as Exhibit 2550.

16 What is depicted in that?

17 A. That is the black trash bag right there, and that
18 is the blue dry bag.

19 Q. And was there writing on the blue dry bag?

20 A. Yes.

21 Q. What was the writing on the blue dry bag?

22 A. It said "DeMocker" and two cell phone numbers or
23 two phone numbers.

24 MR. BUTNER: May I approach, Judge?

25 THE COURT: Yes.

1 MR. BUTNER: Let me show you what was marked
2 as Exhibits 2554 and 2555.

3 Q. Do you recognize what is depicted in Exhibit 2554?

4 A. 54 is a picture of the blue dry bag that I took.

5 Q. And then what is depicted in Exhibit 2555?

6 A. A close-up of the writing on the blue dry bag that
7 says "DeMocker" and two phone numbers.

8 Q. Did you and the other deputies seize that black
9 plastic bag and the blue dry bag and its contents out there
10 by the side of the golf course?

11 A. Yes, we did.

12 Q. Did you bring it back to the Sheriff's department?

13 A. Yes, we did.

14 Q. Did you take photos that day?

15 A. Yes, I did.

16 Q. Are these some of the photos that you took?

17 A. Yes, they are.

18 MR. BUTNER: I move for admission of 2554 and
19 2555.

20 MR. SEARS: No objection.

21 THE COURT: 2554 and 2555 are admitted.

22 MR. BUTNER: May I publish, Your Honor?

23 THE COURT: Yes.

24 MR. BUTNER: Thank you.

25 Q. I am showing you 2554; right?

1 A. Yes.

2 Q. That is the blue dry bag?

3 A. Correct.

4 Q. This is Exhibit 2555.

5 And do you recognize that?

6 A. Yes. It is a close-up of the writing, and it says
7 "DeMocker" and two phone numbers.

8 Q. They are kind of hard to read in this picture.
9 Were you able to read the phone numbers?

10 A. Yes.

11 Q. Out at the scene, did you open up the bag?

12 A. Yes.

13 Q. And let me show you what's been marked as Exhibit
14 2551 and 2552. Take a look at Exhibit 2552, first of all.

15 Do you recognize what is depicted in
16 that?

17 A. Yes, some of the items that were inside that dry
18 bag.

19 Q. Okay. Like what?

20 A. There is a UBS hat, a sandwich bag with a cell
21 phone, and some -- I believe it was some underwear -- and I
22 believe two hats, I believe, and some other items.

23 Q. Let me show you what was marked as 2551.

24 What is depicted in that?

25 A. A close-up of the UBS hat.

1 MR. BUTNER: I move for the admission of
2 Exhibits 2551 and 2552.

3 MR. SEARS: No objection.

4 THE COURT: 2551 and 2552 are admitted.

5 BY MR. BUTNER:

6 Q. Showing you Exhibit 2552, what is depicted in this
7 particular photograph, please?

8 A. There's the black trash bag, the dry bag, the UBS
9 hat, the Ziploc sandwich bag with the cell phone, and some of
10 other stuff that was there, clothing items.

11 Q. And then Exhibit 2551?

12 A. That's a close-up of the UBS hat.

13 Q. And where was Mr. DeMocker working at the time?

14 A. UBS.

15 Q. Let me show you what has been marked as Exhibit
16 2558, 2559, 2563. 2558, 2559, and 2563.

17 First of all, I am showing you what has
18 been marked as Exhibit 2558. Do you recognize what is
19 depicted in that particular photograph?

20 A. Yes.

21 Q. What is it?

22 A. It is a small Mag light flashlight.

23 Q. Did you take that photograph?

24 A. Yes, I did.

25 Q. Where was that Mag flashlight found?

1 A. It was part of the contents in that blue dry bag.

2 Q. You took those photographs back to the Sheriff's
3 office?

4 A. Yes.

5 Q. On the same date that these items were discovered?

6 A. Yes.

7 Q. Let me show you Exhibit 2559.

8 Do you recognize what is depicted in
9 that?

10 A. Yes. It is the Ziploc sandwich bag with the blue
11 Samsung cell phone in it.

12 Q. That was in the bag also?

13 A. Yes.

14 Q. That is 25 --

15 THE COURT: 59.

16 BY MR. BUTNER:

17 Q. 59; is that correct?

18 A. Yes.

19 Q. Let me show you Exhibit 2563.

20 Do you recognize that?

21 A. Yes.

22 Q. What is depicted in that particular exhibit?

23 A. It's a cell phone that was inside that sandwich
24 bag. I opened it up to take a picture of that.

25 MR. BUTNER: I would move for the admission of

1 Exhibits 2558, 59 and 63 at this time, Judge.

2 MR. SEARS: 63, Your Honor?

3 THE COURT: 2563, yes.

4 MR. SEARS: No objection.

5 THE COURT: 2558, 2559 and 2563 are admitted.

6 MR. BUTNER: May I publish?

7 THE COURT: You may.

8 MR. BUTNER: Thank you, Judge.

9 Q. Showing you what has been admitted into evidence
10 as 2558, what is that, please?

11 A. That is the small Mag light flashlight that was
12 inside the blue dry bag.

13 Q. And showing you what has been admitted into
14 evidence as Exhibit 2563, what is that?

15 A. That is the Samsung cell phone that was inside the
16 sandwich bag inside the dry bag.

17 Q. And then showing you what has been admitted into
18 evidence as Exhibit 2559.

19 A. Again, it is a blue Samsung cell phone inside the
20 sandwich bag that we found inside the blue dry bag.

21 Q. And let me show you what has been marked as
22 Exhibit 2561 and 2562.

23 Do you recognize what is depicted in
24 those photographs?

25 A. Yes.

1 Q. What is? In regard to 2561, first of all.

2 A. I removed the cover from the cell phone, and I
3 took a photo of the battery and the serial number or ESN of
4 the phone.

5 Q. And then in regard to Exhibit No. 2562, what is
6 depicted in that?

7 A. It is a close-up of the ESN number.

8 Q. For what reason did you take these photographs?

9 A. The ESN number or "X" number for the cell phone
10 can be traced, and I can find out where it was bought and who
11 it belonged to.

12 Q. In fact, was an investigation done in that regard?

13 A. Yes.

14 MR. BUTNER: I would move for the admission of
15 2561 and 2562 at this time.

16 MR. SEARS: No objection.

17 THE COURT: 2561, 2562 are admitted.

18 MR. BUTNER: May I publish, Your Honor?

19 THE COURT: You may.

20 MR. BUTNER: Thank you.

21 Q. Showing you what has been admitted into evidence
22 as 2561, would you please tell us what it is?

23 A. This is a photo that I took after I took the cover
24 off and the battery and there is the ESN number.

25 Q. You can't really see the ESN number in that photo,

1 but let me show you what has been admitted as 2562.

2 What is depicted in that particular
3 photograph?

4 A. A close-up of the ESN number of the cell phone,
5 which is this one here.

6 Q. Are you the person that conducted the
7 investigation to find out where that phone was purchased and
8 to whom it belonged?

9 A. No, sir.

10 Q. Let me show you what has been marked as Exhibits
11 2565 and 2566, 2568.

12 First of all, showing you 2565, do you
13 recognize what is depicted in that exhibit?

14 A. Yes. It is a shoe that came out of that dry bag,
15 the blue dry bag.

16 Q. How many shoes were in the blue dry bag? Was
17 there a pair?

18 A. At least a pair, yes.

19 Q. And is that one of them?

20 A. Yes.

21 Q. And then let me show you what has been marked as
22 Exhibit 2566.

23 Do you recognize that particular
24 photograph?

25 A. Yes. This is the bottom, the sole of the tennis

1 shoe.

2 Q. That is a sort of a hiking-type shoe; isn't it?

3 A. Yes.

4 Q. Let me show you what has been marked as Exhibit
5 2568, and what is that?

6 A. Again, this is the shoe, the tennis-shoe-type
7 hiking shoe with the inside, or I guess, the cushion taken
8 out.

9 Q. You took all of these photographs; is that
10 correct?

11 A. Yes.

12 Q. That was on April the 9th?

13 A. 9th.

14 Q. Of 2010?

15 A. Yes.

16 Q. These were items that were inside that wet-dry
17 bag?

18 A. Yes.

19 MR. BUTNER: I would move for the admission of
20 2565, 2566 and 2568.

21 MR. SEARS: No objection.

22 THE COURT: 2565, 2566, 2568 are admitted.

23 MR. BUTNER: May I publish, Your Honor?

24 THE COURT: You may.

25 MR. BUTNER: Thank you.

1 Q. Showing you 2565, what is depicted in that
2 particular photo?

3 A. One of the tennis shoes that was found inside the
4 dry bag.

5 Q. And then 2566, what is depicted in that particular
6 photo?

7 A. The bottom of the sole of the same shoe.

8 Q. And then showing you Exhibit No. 2568, what is
9 depicted in that exhibit?

10 A. Same shoe again, with the cushion taken out.

11 Q. Did you pull that out?

12 A. Yes, I did.

13 Q. For what reason did you pull that out?

14 A. I thought I saw something that was unusual here.

15 Q. Did you find out whether it was unusual in any
16 way?

17 A. It possibly could have been some sort of mold that
18 had been there since the dry bag leaked.

19 Q. And then let me show you what has been marked as
20 Exhibits 2571 and 2572.

21 Do you recognize what is depicted in
22 those two photographs?

23 A. I believe it is the other shoe, the other pair.

24 Q. The mate to this shoe?

25 A. Yes.

1 Q. And 2572?

2 A. Yes. It is a side view of the sole.

3 Q. Of the same pair of shoes?

4 A. Yes.

5 MR. BUTNER: I move for the admission of 2571
6 and 2572.

7 MR. SEARS: No objection.

8 THE COURT: 2571, 2572 are admitted.

9 MR. BUTNER: Then let me show you what has
10 been marked as Exhibit 2573 for identification and 2574.

11 Q. Do you recognize those particular items?

12 A. Yes. These are a pair of black sweat pants type
13 of -- that was inside the dry bag, and a black T-shirt that
14 was also inside the dry bag.

15 MR. BUTNER: All right. And I would move for
16 the admission of Exhibits 2571, 2572, 2573, and 2574 at this
17 time.

18 THE COURT: 71, 72 I admitted already; didn't
19 I? Those are admitted already. So the offer is for 2573 and
20 2574.

21 MR. SEARS: No objection.

22 THE COURT: Those Exhibits 2573 and 2574 are
23 admitted.

24 MR. BUTNER: Okay.

25 Q. Let me show you what has been marked as Exhibits

1 2579 and 2580.

2 Do you recognize what is depicted in
3 those exhibits?

4 A. Yes. Each photo depicts a sock, a gray sock that
5 said "Patagonia."

6 Q. Separate socks?

7 A. Yes. They were inside the dry bag.

8 Q. But do they match each other?

9 A. Yes.

10 Q. And then showing you Exhibit 2578.

11 What is depicted in that?

12 A. Some blue briefs that were inside the dry bag.

13 Q. Blue men's underwear?

14 A. Yes.

15 MR. BUTNER: I would move for the admission of
16 Exhibits 2579, 2580 and 2578.

17 MR. SEARS: No objection.

18 THE COURT: 2578, 2579 and 2580 are admitted.

19 MR. BUTNER: Thank you.

20 Q. Let me show you what has been marked as Exhibit
21 2576.

22 Do you recognize that?

23 A. Yes. This is the other baseball hat that was in
24 the dry bag.

25 Q. So there were two baseball hats?

1 A. Yes.

2 Q. One the UBS hat?

3 A. Yes.

4 Q. And one this kind? Do you recognize that?

5 A. I believe it is A-C-L, or I don't know.

6 MR. BUTNER: I move for the admission of 2576.

7 MR. SEARS: No objection.

8 THE COURT: 2576 is admitted.

9 MR. BUTNER: May I publish these, Your Honor?

10 THE COURT: You may.

11 BY MR. BUTNER:

12 Q. What was your understanding as to the purpose of
13 this bag that was located on the side of the golf course
14 there across from Mr. DeMocker's residence?

15 A. My understanding was that these items were going
16 to be used to leave the area.

17 Q. Is this a get-away bag?

18 A. Yes.

19 Q. Showing you Exhibit 2571, that's the other shoe?

20 A. Yes.

21 Q. And is this the bottom of the other shoe, Exhibit
22 2572?

23 A. Yes.

24 Q. Okay. And then showing you Exhibit 2574.

25 A. That's a black T-shirt.

1 Q. And 2573?

2 A. That is the sweat pants.

3 Q. Were all of the items of clothing in there, the
4 outer items of clothing, of dark color?

5 A. Yes.

6 Q. Or black?

7 A. Yes.

8 Q. And then showing you Exhibits 2579 and 2580. Here
9 is 79.

10 A. That is one of the pairs of gray socks.

11 Q. The Patagonia socks?

12 A. Yes.

13 Q. And 2580, this is the other one?

14 A. Yes.

15 Q. And then 2578?

16 A. The blue underwear.

17 Q. And 2576?

18 A. The other baseball hat.

19 Q. One other photograph here in connection with this,
20 showing you Exhibit 2557. If you could tell us what is
21 depicted in that.

22 A. That's another bag that -- actually it is the
23 brand name of the bag that was there.

24 Q. So how was that bag involved with this situation?

25 A. They were all -- one was placed inside the other.

1 Q. Okay. We had the black plastic on the outside?

2 A. Yes.

3 Q. What came after that going toward the inside?

4 A. The blue one.

5 Q. The blue wet-dry bag?

6 A. Correct.

7 Q. What was inside of that?

8 A. Kind of just a cloth bag.

9 Q. And all of those items of clothing and the cell
10 phone were inside that?

11 A. Yes.

12 Q. As well as the flashlight?

13 A. Correct.

14 Q. Did you take this photograph also, Exhibit 2557?

15 A. Yes, I did.

16 MR. BUTNER: I would move for its admission
17 also, Your Honor.

18 MR. SEARS: What number?

19 THE COURT: 2557.

20 MR. SEARS: No objection.

21 THE COURT: 2557 is admitted.

22 BY MR. BUTNER:

23 Q. Approximately how far, Detective Huante --

24 Sergeant Huante, how far from Mr. DeMocker's condominium was
25 this blue bag located on the Hassayampa Golf Course, or just

1 off of the Hassayampa Golf Course, so to speak?

2 A. I am not exactly sure, but it was within walking
3 distance.

4 MR. BUTNER: May I have just a moment, Judge?

5 THE COURT: Uh-huh, yes.

6 MR. BUTNER: Thank you.

7 Q. In addition to discussing with Mr. DeMocker during
8 the interviews that you had with him early in the day on July
9 the 3rd, in addition to discussing going out to the Bridle
10 Path residence, Carol's residence and picking up Katie's car,
11 did Mr. DeMocker indicate to you that he had considered going
12 out to Carol's residence that day for any other purpose?

13 A. Yes.

14 Q. What was the other purpose or purposes which he
15 indicated he was planning on going out there for?

16 A. They were suppose to exchange checks. He was
17 suppose to receive some sort of a check from Carol in the
18 \$8,000 range, and he was suppose to give her the spousal
19 support check.

20 Q. During the course of that interview, did
21 Mr. DeMocker indicate to you whether Carol had planned on
22 giving him his check or not?

23 A. I don't believe he advised me of that.

24 Q. You don't recall that part?

25 A. No, I don't.

1 Q. But they were to exchange checks. He was to get
2 \$8,000, and she was to get her spousal support for the month,
3 6,000?

4 A. Correct.

5 Q. Did he tell you when that spousal support was due?

6 A. I believe he said it was on the 1st, or the 1st of
7 the month.

8 MR. BUTNER: I have no further questions of
9 this witness at this time.

10 THE COURT: Do you want to start, Mr. Sears,
11 this afternoon or do you want --

12 MR. SEARS: I'd just as soon pick it up in the
13 morning.

14 THE COURT: There are plenty of things that we
15 can go over, and it has been a long day for the jury, and I
16 will excuse you at this point, ladies and gentlemen. Phil,
17 if you would collect any additional jury questions.

18 Sergeant Huante, you may step down while
19 we are doing this.

20 We will resume at nine o'clock in the
21 morning for testimony. Remember the admonition. Take care
22 of yourselves overnight. If you have any additional
23 questions, pass them to Phil, please, on your way out.

24 Have a good evening.

25 (Whereupon, the jury exits the courtroom.)

1 MR. BUTNER: 2234, I am returning.

2 THE COURT: Duly noted on the record.

3 MR. SEARS: We have a brief stipulation,
4 Judge.

5 The parties agree that Exhibit 2544 for
6 identification can be admitted. It is a page from bench
7 notes of a D.P.S. criminalist about his examination of the
8 bicycle tires.

9 MR. BUTNER: In fact, Mr. Sears, is there any
10 problem with admitting all of his bench notes?

11 MR. SEARS: At this point, I would have to
12 look at them.

13 MR. BUTNER: I understand you want to use that
14 for cross-examination purposes, and I do not have objection
15 to that being admitted.

16 THE COURT: Can I note for the record, then,
17 that Exhibit 2544 is admitted?

18 MR. BUTNER: Yes.

19 THE COURT: And probably should advise the
20 jury of that in the morning.

21 MR. SEARS: Thank you.

22 THE COURT: 2544 is admitted.

23 I don't know to what extent you want to
24 go over any of the --

25 MR. SEARS: Are these the newest ones that you

1 have there?

2 THE COURT: I have even newer ones, yes, sir,
3 I haven't even looked at yet. Mr. Butner and/or Mr. Paupore
4 are welcome to come up to see the additional jury questions.

5 (Whereupon, a discussion was held off the record.)

6 THE COURT: Now, if you want to go over these
7 this afternoon so we get through them all, we can start this
8 afternoon. If you want to go over them at eight o'clock in
9 the morning, we can do it then. But at 8:40 we have No. 8
10 coming back in.

11 MR. SEARS: Would it be possible to photocopy
12 the questions to look at overnight?

13 THE COURT: Absolutely.

14 MR. SEARS: It would probably be more
15 expeditious.

16 THE COURT: Phil, would you mind.

17 We will adjourn for the evening. I will
18 see the lawyers and defendant at eight o'clock. We will see
19 Juror No. 8 at 8:40. We will try to get through the jury
20 questions, and I will provide a copy to each side of the
21 questions I have received. Phil, will you give them the
22 additional one from Juror No. 8.

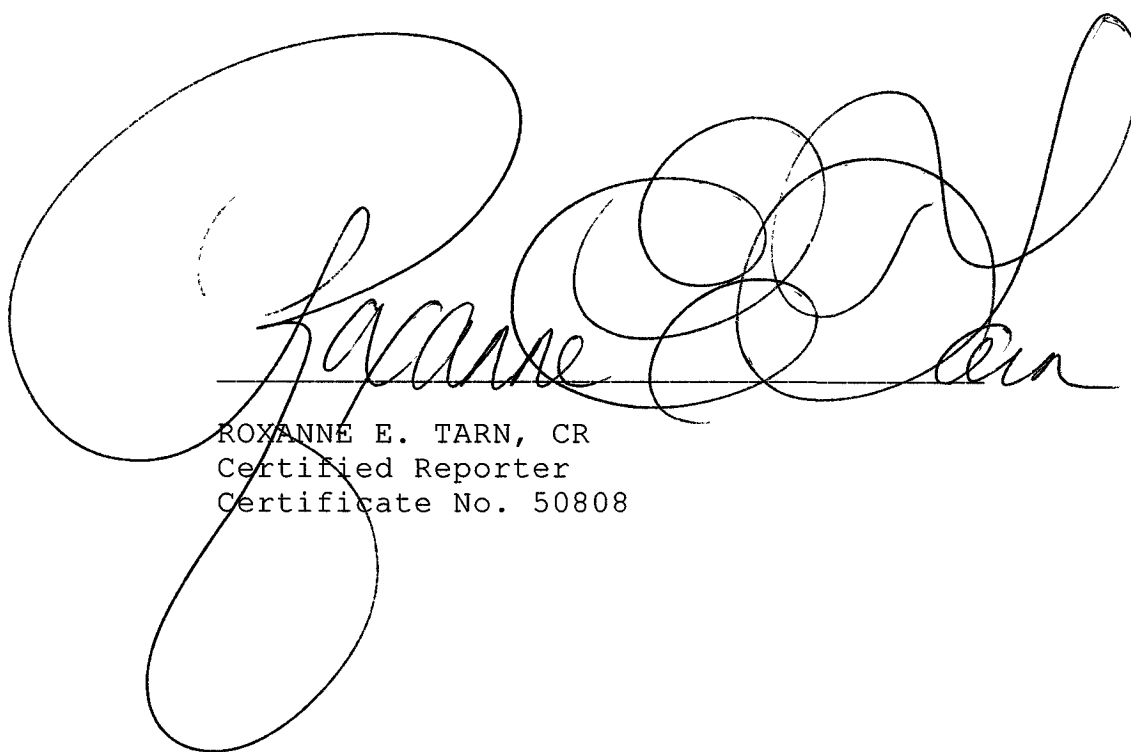
23 Stand in recess.

24 (Whereupon, at 4:45 p.m. the case was adjourned
25 to resume at 9:00 a.m. on June 17, 2010.)

C E R T I F I C A T E

I, ROXANNE E. TARN, CR, a Certified Reporter
in the State of Arizona, do hereby certify that the foregoing
pages 1 - 117 constitute a full, true, and accurate
transcript of the proceedings had in the foregoing matter,
all done to the best of my skill and ability.

SIGNED and dated this 12th day of July, 2010.

A large, stylized handwritten signature in cursive script, appearing to read 'Roxanne E. Tarn', is written over a horizontal line. The signature is fluid and occupies a significant portion of the lower half of the page.

ROXANNE E. TARN, CR
Certified Reporter
Certificate No. 50808